

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





75-2109

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

Original

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No. 75-2109  
\_\_\_\_\_

DORIS ARMSTRONG, etc., et al.,

Plaintiffs-Appellees,

-against-

BENJAMIN WARD, etc., et al.,

Defendants-Appellants.

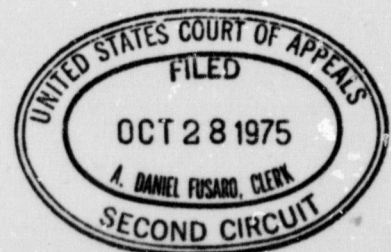
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ON APPEAL FROM THE UNITED STATES  
DISTRICT COURT FOR THE SOUTHERN  
DISTRICT OF NEW YORK  
\_\_\_\_\_

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JOINT APPENDIX  
\_\_\_\_\_

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Index to Appendix

	<u>Page</u>
Relevant Docket Entries	1a
Complaint	2a
Notice of Motion for Class Certification and Summary Judgment	29a
Statement Pursuant to Rule 9G	31a
Affidavit of Carol Crooks	38a
Affidavit of Leslie Mason	48a
Affidavit of Doris Armstrong	53a
Affidavit of Margaret Leak	57a
Affidavit of Daisy Garcia	60a
Affidavit of Theresa Durante	63a
Exhibit A to Motion for Summary Judgment	65a
Exhibit B to Motion for Summary Judgment	66a
Exhibit C to Motion for Summary Judgment	67a
Exhibit D to Motion for Summary Judgment	68a
Defendants Objection to Statement Pursuant to Rule 9G	69a
Affidavit of Janice Warne	73a
Affidavit of Vito Ternullo	74a
Affidavit of Patrick Fish	75a
Transcript of Proceedings, May 30, 1975	77a
Letter date June 6, 1975 from Benjamin Ward to Whitman Knapp	92a
Memorandum and Order dated June 26, 1975	93a
Notice of Appeal to United States Court of Appeals	97a

Relevant Docket Entries

<u>Date</u>	<u>Proceedings</u>
1/31/75	Filed Complaint and Issued Summons
4/22/75	Filed Plaintiff's Affidavits and Notice of Motion for Summary Judgment and to Determine a Class
5/08/75	Filed Order that return day of Plaintiff's Motion for Summary Judgment is adj. to 5/16/75. <u>Knapp, J.</u>
5/23/75	Filed Defendant's Objections to 9(g) Statements and Affidavits.
6/25/75	Filed Memorandum and Order # 42669.
6/26/75	Filed Order that action be declared a class action pursuant to FRCP 23(a) and (b)(2), the class consisting of all women in the custody of the New York State Department of Correctional Services at Bedford Hills Correctional Facility who are subject to be transferred to Fishkill Correctional Facility. Plaintiff's motion for summary judgment against defendants is granted. Defendant's are permanently enjoined from sending any member of plaintiff's class to Fishkill Correctional Facility. Plaintiff's motion granted and action is terminated. <u>Knapp, J.</u>
7/16/75	Filed transcript of record or proceedings dated 5/30/75.
7/23/75	Filed Notice of Appeal to the United States Court of Appeals.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DORIS ARMSTRONG, MARGARET LEAK,  
CAROL CROOKS, LESLIE MASON, GLORIA  
JONES, DAISY GARCIA, BARBARA LEE  
and DIEDRE PLAIN, On Behalf of  
Themselves and all Others Similarly  
Situating.

Plaintiffs,

-against-

PETER PREISER, individually, and as  
Commissioner of Correctional Services;  
EDWARD ELWIN, individually, and as  
Deputy Commissioner of Program Services;  
WILLIAM QUICK, individually, and as  
Deputy Commissioner of Correctional  
Facilities; EUGENE PHILLIPS, individual-  
ly, and as Director of Classification  
and Movement; JANICE WARNE, individual-  
ly, and as Superintendent of Bedford  
Hills Correctional Facility; JOSEPH  
CURRY, individually, and as Deputy  
Superintendent for Program Services;  
VITO TURNELLO, individually, and as  
Superintendent of Fishkill Correctional  
Facility; STEVEN DALSHEIM, individually,  
and as Deputy Superintendent of Pro-  
gram Services; RITA SMITH, individually,  
and as Supervisor, Female Unit of  
Fishkill Correctional Facility,

Defendants.

DEPARTMENT OF  
CORRECTIONAL SERVICES  
RECEIVED

FEB 6 1975

DEPUTY COMMISSIONER  
COUNSEL

75 Civ. 470  
(WK)

COMPLAINT

CLASS ACTION

### JURISDICTION

1. Plaintiffs sue on behalf of themselves and all others similarly situated for damages and declaratory and injunctive relief to redress injury caused by the acts, practices and procedures used by Defendants in transferring, or seeking to transfer, Plaintiffs from Bedford Hills Correctional Facility to Fishkill Correctional Facility, and for cruel and unusual punishment inflicted upon them at Fishkill Correctional Facility.

This Court has jurisdiction pursuant to 28 U.S.C. §1343, 2201 and 2202, to redress the deprivations of rights privileges and immunities guaranteed to Plaintiffs by 42 U.S.C. 1983, the First, Sixth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution.

This Court has jurisdiction of any state law claims under the doctrine of pendent jurisdiction.

### CLASS ACTION ALLEGATIONS

2. This is a Class Action pursuant to Rule 23(a) and (b) (2) of the Federal Rules of Civil Procedure. It is brought on behalf of all women prisoners in the custody of the New York State Department of Correctional Services who are subject to transfer to Fishkill Correctional Facility, and on behalf of all women prisoners who have been transferred from Bedford Hills



Correctional Facility ("Bedford Hills") to Fishkill Correctional Facility. There are approximately four hundred women prisoners in New York State, including approximately three hundred-eighty at Bedford Hills, and twenty at Fishkill Correctional Facility. Any prisoner at Bedford Hills may be transferred to Fishkill Correctional Facility at the whim and caprice of the Defendants without any of the elements of due process of law. The Class is therefore so numerous as to make joinder impracticable.

3. All Plaintiffs, except DIEDRE PLAIR, have all been transferred from Bedford Hills to Fishkill Correctional Facility. Five Plaintiffs were transferred after the administration of a test given while they were incarcerated at Bedford Hills. The other Plaintiffs were transferred arbitrarily and without any notice or warning. All Plaintiffs, except Plaintiff PLAIR were transferred without minimum procedural safeguards required by due process of law. They are now subject to the same constitutional deprivations at Fishkill Correctional Facility. Plaintiff PLAIR is an inmate at Bedford Hills. She refused to take the examination upon which other transfers were based. Consequently, she remains at Bedford Hills. All Plaintiffs will thus fairly and adequately protect the interests of the Class.

4. There are questions of law and fact common to the Class as to whether the procedures used to transfer prisoners



from Bedford Hills violate their rights under the Fourteenth Amendment, whether the disparity in conditions between Bedford and Fishkill Correctional Facility renders the transfers punitive; and whether conditions at Fishkill Correctional Facility violate Plaintiffs rights under the First, Sixth, Eighth, Ninth and Fourteenth Amendments. Defendants have acted and refused to act, and will continue to act and refuse to act on grounds generally applicable to the Class, thereby making papropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

PARTIES

A. Plaintiffs

5. All Plaintiffs are in the custody of the New York State Department of Correctional Services pursuant to judgments of conviction rendered by New York State Courts. All Plaintiffs were originally incarcerated in Bedford Hills and with the exception of DIEDRE PLAIR, have been transferred to Fishkill Correctional Facility, on the authority of Defendants PREISER, ELWIN, and QUICK, and with the knowledge and approval of Defendants WARNE and TURNELLO.

6. Plaintiff LEE was required to take an examination by Defendants WARNE and CURRY in or about July, 1974. She was summarily and surreptitiously transferred to Fishkill Correctional Facility with other members of the Class on or about August 2,

1974.

7. Plaintiff CROOKS was summarily and surreptitiously transferred from Bedford to Fishkill Correctional Facility on or about September 1, 1974, as more fully set forth below.

8. Plaintiff MASON was summarily and surreptitiously transferred from Bedford to Fishkill Correctional Facility on or about September 27, 1974, as more fully set forth below.

9. Plaintiffs ARMSTRONG, LEAK, JONES and GARCIA were required to take an examination, allegedly for classification within Bedford Hills, by Defendants WARNE and CURRY on or about November 4, 1974. They were transferred to Fishkill Correctional Facility on or about December 27, 1974.

10. Plaintiff PLAIR was asked to take the examination on November 4, 1974. She refused. She was not transferred.

B. Defendants:

11. Defendant PREISER is Commissioner of Correctional Services of the State of New York. He is responsible for the administration of the Department of Correctional Services and all institutions, including Bedford Hills and Fishkill under its aegis.

12. Defendant ELWIN is Deputy Commissioner of Program Services. He is responsible under Defendant Preiser for the



administration of educational and rehabilitative programs in all institutions under the aegis of the Department of Correctional Services. Defendant CURRY and DALSHEIM are Deputy Superintendents of Program Services at Bedford Hills and Fishkill Correctional Facility respectively. They are responsible for the administration of educational and rehabilitative services within their respective institutions.

13. Defendant QUICK is Deputy Commissioner of Correctional Facilities. He is responsible under Defendant Preiser for the operation and supervision of all institutions under the aegis of the Department of Correctional Services.

14. Defendants WARNE and TURNELLO are the Superintendents of Bedford Hills and Fishkill Correctional Facility respectively. They are responsible for the supervision and management of their respective prisons.

15. On information and belief, Defendant SMITH is the Supervisor of the Female Unit at Fishkill Correctional Facility. She is responsible for the operation and management of that unit.

#### F A C T S

16. Fishkill Correctional Facility is a complex of prisons and hospitals located in Beacon, New York. The complex includes Fishkill Correctional Facility (Glenham), ("Fishkill" Beacon State Institution and Manhattan State Hospital ("Matteawan").

Fishkill is a male institution used to house elderly and handicapped prisoners. Matteawan is a male institution for the custody and care of mentally and emotionally ill prisoners. It is commonly referred to as a hospital for the criminally insane.

17. Prior to August 2, 1974, Bedford Hills Correctional Facility was the only State prison for women convicted of felonies.

18. Plaintiffs are neither physically handicapped, nor in need of geriatric care, nor have they been committed to Matteawan by any Court as insane or incompetent.

19. In or about July, 1974, Defendant Curry, under the direction of Defendant Warne caused a test to be administered to several inmates of Bedford Hills, including Plaintiff Lee. They were told that the purpose of the test was reclassification within Bedford Hills. On information and belief, the test was inadequate to measure either intelligence or learning ability of a person of a chronological age older than four years. On information and belief, the test contained no measure of reading skills above a kindergarten level.

20. On or about Saturday, August 2, 1974, Plaintiff Lee and seven other women prisoners were transferred from Bedford Hills to Fishkill Correctional Facility. They were given no advance notice of the transfer. They were given no hearing at which they could state the reasons they opposed the transfer, nor were they given a statement of reasons for the transfer. They



were not permitted to notify their family or attorneys that they were being transferred from Bedford Hills to Fishkill Correctional Facility.

21. After arrival at Fishkill, the eight women were told that they had been transferred because they are slow learners. On information and belief, neither Plaintiff Lee, nor any of the other transferred women are under any learning disability. Plaintiff Lee is a high school graduate and participated in the Honors Program at Bedford Hills.

22. The women were housed from August 2, 1974, until November 27, 1974 in Fishkill, a wing of the hospital for the elderly and handicapped designated "Building 13." The facilities at Fishkill are harsher and substantially different from those at Bedford Hills in the following respects:

A) A) The cells in which the women were housed in at Fishkill are inferior to those at Bedford in that:

1. Lighting in the cell is poorer.
2. The cells are filthy.
3. The cells are rodent infested.
4. Toilets were often broken.
5. There often was no hot running water.

B) There are no educational, vocational or rehabilitative programs at Fishkill that conform to the public policy of the State of New York to return prisoners to society

with a desire to conduct themselves as good citizens.

C) Bedford Hills has a variety of programs for vocational training and rehabilitation of inmates, including photography, art and dance classes, among others, and law classes. None of these programs exist for the women at Fishkill.

D) Bedford Hills has a variety of academic educational programs from basic elementary school through college level courses. At Fishkill the academic program for the women consisted of a second or third grade tutor conducting class in a corridor of the womens' wing.

E) Female inmates at Fishkill were only permitted to use the law library from 30 to 45 minutes a day.

F) Male correction officers entered the womens' housing area unannounced, and often at times when some women were in various stages of undress.

G) The female inmates were forbidden to discuss with the law clerks of the law library, any matters discussed by the Inmate Liaison Committee.

H) The pay grade of female inmates was lowered upon their transfer to Fishkill with the result that they now earn less money at Fishkill than they did at Bedford Hills for their assignments.



23. On or about November 25, 1974, the female prisoners at Fishkill, including Plaintiffs Crooks, Mason and Lee were transferred to Matteawan and housed in the same building as the male mental patients.

24. The facilities at Matteawan are even more dismal and harsh than those at Fishkill.

A) The cells that the women are housed in at Matteawan are in worse condition than those at Fishkill in that:

1. There are no sinks or toilets in the cells. Prisoners are therefore unable to urinate or defecate during lock-in times, unless they do so on the floor; nor can they wash or drink water during lock-in times.
2. The lighting in the cells is inadequate.
3. The cells are filthy.
4. The cells are rodent infested.
5. There are no hooks for hanging clothing in the cells.
6. Prisoners cannot turn the light in the cell on and off. They must ask a guard who may or may not respond.
7. Prisoners cannot regulate the heat in their cells.
8. Prisoners cannot open or close the windows in their cells. They must ask a guard who may or may not respond.
9. The cell windows are barred inside and outside.

B) Women prisoners are subjected to personal searches every time they leave their housing area.

C) Muslim women are required to undergo a strip search in the presence of a male guard or prison official before they are permitted to attend religious services.

D) Cells of female prisoners are searched daily.

E) Food is served to the women prisoners in the day room. It is often cold, stale and inedible. The milk is often sour. On information and belief, other prisoners or patients eat in a dining hall where the food is served properly prepared

F) Women placed in solitary confinement (segregation) are placed in a strip cell and deprived of mattress, bedding, and hot running water.

G) Women prisoners confined to Special Housing are confined with mental patients.

H) Women confined to their cells as punishment are not permitted out of their cells to urinate and defecate, and are forced to perform these functions on the floor of their cells.

I) Male mental patients routinely enter or pass through the female housing area unannounced and unescorted, and often at times when the women are in various stages of undress.



J) Female prisoners desiring to attend religious services, movies or other programs are required to pass through the mental patient wards and to come in close contact with the mental patients. The female prisoners are often required to come into close contact with the mental patients if they desire to participate in the limited programs available to them.

K) Female prisoners at Matteawan are permitted to use the law library from 30 to 45 minutes a day.

L) The pay grade of female inmates at Matteawan is substantially lower than at Bedford Hills. They earn less money at Matteawan than they did at Bedford Hills for their assignments.

M) There are no educational, vocational or rehabilitative programs at Matteawan for Plaintiffs or their class that comply with the public policy of New York State to return prisoners to society with a desire to conduct themselves as good citizens.

N) The only vocational program available to women in Matteawan are automobile shop and carpentry shop.

O) The only educational program available to the women prisoners at Matteawan is one teacher and one classroom. The program consists primarily of elementary school level reading and writing.

P) The only occupational therapy program at Matteawan for the women prisoners is a class of knitting and crocheting.

Q) The women prisoners are frequently denied medical attention or given improper treatment.

R) There is no specialized learning material for those women alleged to be slow learners.

S) Women prisoners are denied the use of the gymnasium.

T) Women prisoners are forced to participate in the limited programs even though they have no interest for them.

25. On or about November 4, 1974, Plaintiffs ARMSTRONG, LEAK, GARCIA, JONES and other inmates of Bedford Hills were required by Defendants Warne and Curry, to take a test similar to, and under the same circumstances as the test administered in July as set forth in Paragraph 19.

26. On or about December 27, 1974, Plaintiffs Armstrong, Leak, Garcia, Jones and five other women prisoners were transferred from Bedford Hills to Matteawan. They were given no hearing at which they could state the reasons they opposed the transfer. Nor were they given a statement of reasons for the transfer.

27. They were not permitted to notify their family or attorneys that they were being transferred from Bedford Hills to MATTEAWAN. Plaintiff Armstrong was told by Lt. Cradle that the State had sent notification of the transfer to the families of the women concerned. On information and belief, this was not done.



Plaintiff Armstrong's family did not receive any such notice.

28. The second group of prisoners, like the first, was told they were being transferred to Matteawan because they are slow learners. On information and belief, none of the women in the second group is under a learning disability.

29. Upon arrival at Matteawan, this second group was housed with the other women prisoners under the conditions described in Paragraph 24.

30. Upon arrival at Matteawan, a staff physician indiscriminately prescribed a tranquilizer of the thorazine family to the new arrivals. The women were not physically or medically examined prior to this prescription. At the time this drug was prescribed, the prisoners' medical histories had not arrived at Matteawan, and the prescribing physician could not know of any condition of any woman that would mandate not prescribing a tranquilizing drug.

31. Plaintiff GARCIA accepted the medication and became violently ill.

32. On information and belief, the fact of transfer, and the reasons therefor, of Plaintiffs and their class were on their records and may be reviewed by the parole board. Plaintiffs will have difficulty rebutting adverse inferences drawn from those entries.

33. Plaintiffs and their class had developed close friendships at Bedford Hills. The abrupt transfers separated Plaintiffs and their class from these friends, and forced them to adjust to a new and more hostile environment.

A. CAROL CROOKS

34. On or about August 28, 1974, LENORE BROWN, an inmate at Bedford Hills, accused Plaintiff CROOKS of having hit her in the mouth. This charge was not substantiated by any evidence.

35. Later that same day, Plaintiff Crooks was asked by the authorities at Bedford Hills to go to segregation. She replied that pursuant to the decision of this Court in Crooks v. Warne, Civ. No. 74 - 2351, (decided October 1, 1974), Brieant, J.), she was entitled to notice of the charges against her before going to segregation, and that shw would go to segregation only once she had received such notice.

36. At or about 10:20 P.M. on August 28, 1974, Plaintiff Crooks was brutally beaten in her cell by six armed male correction officers. She was then forcibly removed from her cell and placed in solitary confinement in a strip cell where she remained until September 1, 1974.

37. On Sunday, September 1, 1974, Plaintiff Crooks remained in solitary confinement at Bedford Hills without any charges having been brought against her. Several correctional officers



assigned to the segregation unit, approached her in her cell and advised her that her mother had come to visit her. Plaintiff Crooks got dressed for her visit, left her cell, and was escorted outside the segregation unit in the direction of the Administration Building, where the visiting room is located.

38. However, she was not permitted to proceed to the Administration Building for her visit; instead, as soon as she left the segregation unit building, she was surrounded by six male correctional officers, forcibly placed in a Department of Correctional Services motor vehicle, and whisked away to Fishkill.

39. Plaintiff Crooks was given no advance notice of the transfer. She was not permitted to notify her family or her attorney.

40. When Plaintiff Crooks arrived at Fishkill, she was kept locked in her cell 24 hours a day. Plaintiff Crooks remained in 24-hour lock-up at Fishkill until October 22, 1974, when she was released pursuant to the order of Westchester Supreme Court, Judge Raymond Sirignano.

B. LESLIE MASON

41. Plaintiff MASON was housed in the Special Housing Unit at Bedford Hills. She fully participated in all programs available to her at that prison.

42. On or about September 27, 1974, Plaintiff Mason was transferred to Fishkill. She was given no advance notice of the transfer. She was given no hearing at which she could state the reasons she was opposed to the transfer, nor was she given a statement of reasons for the transfer.

43. She, like the others, was not permitted to notify her family or attorney that she was being transferred from Bedford Hills to Fishkill.

44. Shortly thereafter, she wrote to Defendant Preiser requesting reasons for the transfer. She received a reply from Chester Clark, an employee or agent of Preiser, which stated in part that Plaintiff Mason had difficulty "in adjusting to the Bedford Milieu."

45. Plaintiff Mason has been forced to exist in the substandard conditions described above. There is no milieu at Matteawan for her to adjust to.

C. DAISY GARCIA

46. While at Bedford Hills, Plaintiff Garcia was to see an "early parole board," a procedure permitted under New York State Law.

47. When she arrived at Matteawan, she was told that because she had been transferred to Matteawan she would not be permitted to see an early parole board.



48. Plaintiff Garcia had been approved to go on a furlough from Bedford Hills for four days. When she arrived at Matteawan she was told that her furlough had been cancelled because she had been transferred to Matteawan.

D. DORIS ARMSTRONG

49. Before being shipped to Matteawan, Plaintiff Armstrong discussed the impending transfer with her guidance counsellor and parole officer. Both told her that she did not belong in Fishkill / Matteawan. Her guidance counsellor wrote to Defendant Curry to protest the transfer but to no avail.

50. Plaintiff Armstrong was told by agents of Defendants Warne and Curry that if there were not sufficient programs for her at Fishkill/Matteawan she should request to return to Bedford Hills. She has done so and was refused.

51. When Plaintiff Armstrong's family visited her at Matteawan, they spoke with an official named Mr. Card. He told them that he didn't know why Plaintiff Armstrong had been transferred to Matteawan, and that the prison was not prepared for the new arrivals.

E. GLORIA JONES

52. Gloria Jones had been approved for a furlough when she was at Bedford Hills. Upon arrival at Matteawan, she was told that she was being denied her furlough because she had been

transferred to Matteawan.

FIRST CLAIM:

53. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 18, 22 through 24, 29 through 45.

54. The transfers of Plaintiffs Crooks and Mason, from Bedford Hills to Fishkill / Matteawan, are punitive in nature.

55. The transfers without a hearing at which they could present reasons why they should not be transferred, and without being given a statement of reasons for the transfer, violate their Fourteenth Amendment right not to be deprived of liberty without due process of law.

SECOND CLAIM:

56. Plaintiffs incorporate by reference, the allegations of Paragraphs 1 through 34 and 46 through 52.

57. The transfers of Plaintiffs Armstrong, Lee, Leak, Garcia, Jones and other members of the class are punitive in nature.

58. The transfers of Plaintiffs Armstrong, Lee, Leak, Garcia, Jones and other members of the class were arbitrary and capricious. The transfers, based on a test that is academically invalid, violate their Fourteenth Amendment rights not to be deprived of liberty without due process of law.



59. The transfers of Plaintiffs ARMSTRONG, LEE, LEAK, GARCIA, JONES and other members of the class without a hearing at which they could present reasons why they oppose the transfer, and without being given a statement of reasons for the transfer violate their Fourteenth Amendment right not to be deprived of liberty without due process of law.

THIRD CLAIM:

60. Plaintiffs incorporate by reference the allegations of Paragraph 1 through 52.

61. Plaintiffs and other members of the class were punitively transferred from a medium security womens prison, to a mens prison and mental institution under conditions harsher and substantially different from those at Bedford Hills.

62. Plaintiffs and their class were punitively transferred from a medium security womens prison to a mens prison and mental institution that has few vocational educational or rehabilitative programs suitable for them.

63. Plaintiffs and their class were punitively transferred from Bedford Hills to Fishkill or Matteawan, causing severe disruption of their lives within the prison environment; making contact with family and counsel more difficult; and depriving them of the opportunity for necessary medical treatment.

64. The transfer of Plaintiffs and their class violates their Eighth and Fourteenth Amendments right not to have cruel and unusual punishment inflicted.

65. The transfer of Plaintiffs and their class violates the Fourteenth Amendment right not to be deprived of liberty without due process of law.

FOURTH CLAIM:

66. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 52.

67. Defendants have an affirmative duty under the laws of the State of New York to provide rehabilitative, vocational and educational programs to prisoners in their custody to ensure that those prisoners return to society with a desire to conduct themselves as good citizens.

68. The failure of Defendants to provide suitable educational, vocational and rehabilitative programs violates their rights under the Constitution and Laws of the State of New York.

FIFTH CLAIM:

69. Plaintiffs incorporate by refernece the allegations of Paragraphs 1 through 52.

70. The Defendants have an affirmative duty to provide the same rehabilitative, vocational and educational programs to Plaintiffs as they provide to other women prisoners in their custody.



71. Plaintiffs and others of the class at Fishkill/Matteawan are denied the same opportunities for vocational, educational and rehabilitative training as those women prisoners at Bedford Hills.

72. Plaintiffs and others of the class earn less for their work assignments than women at Bedford Hills.

73. There is no special educational equipment or remedial courses for women prisoners at Fishkill/Matteawan who are educationally deprived.

74. Plaintiffs and their class are deprived of their Fourteenth Amendment right to the equal protection of the laws.

SIXTH CLAIM:

75. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 52.

76. On information and belief, prisoners confined in male prisons in New York State are transferred among institutions to relieve over crowding. They are transferred to medium or maximum security institutions which have programs comparable to those at the sending institution. Those programs are uniformly qualitatively and quantitatively superior to programs at Fishkill Correctional Facility.

77. Only women have been transferred to Fishkill Correctional Facility in spite of the fact that there are other medium security prisons in New York with programs comparable to Bedford Hills.

78. The transfer of women to Fishkill Correctional Facility violates their Fourteenth Amendment right to the equal protection of the laws.

SEVENTH CLAIM:

79. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 52.

80. The indiscriminate administration of drugs or other chemical therapy without a thorough medical and psychiatric examination, and without knowledge of Plaintiffs' past medical history, violates Plaintiffs' rights under the Eighth and Fourteenth Amendments.

EIGHTH CLAIM:

81. Plaintiffs incorporate by reference the allegations of Paragraph 1 through 52.

82. Strip searches of Muslim inmates without justification when they are going to Muslim Services, violates their rights under the First, Fourth and Fourteenth Amendments.



83. Strip searches of Muslim inmates without justification when they are going to Muslim Services, while inmates of other religious beliefs attend services without being searched, denied Muslim inmates their Fourteenth Amendment right to equal protection of the law.

NINTH CLAIM:

84. The arbitrary and unreasonable limits on the use of the prison's law library, inhibits Plaintiffs' ability to assist in preparation of their appeals and other legal matters, and thus denies them and their class access to the Courts in violation of their Sixth and Fourteenth Amendment rights.

TENTH CLAIM:

85. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 52.

86. The prohibition against discussing matters before the inmate liaison committee with duly designated prison law clerks, violates Plaintiffs rights under the First, Sixth, and Fourteenth Amendments.

ELEVENTH CLAIM:

87. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 52.

88. The continued uninvited and unannounced presence of male correction officers and mental patients in the womens housing area, and during personal searches of women, violates Plaintiffs rights under the Ninth and Fourteenth Amendments.

TWELFTH CLAIM:

89. Plaintiffs incorporate by reference the allegations of Paragraphs 1 through 52.

90. Housing Plaintiffs and their class in a mental institution and forcing them to come into close contact with the mental patients, violates their rights under the First, Ninth and Fourteenth Amendments and the Laws of the State of New York.

WHEREFORE, Plaintiffs pray that this Court:

1. Enter a judgment declaring that Defendants have violated Plaintiffs rights under the First, Fourth, Sixth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution, and 42 U.S.C. §1983.

2. Preliminarily and permanently enjoin the Defendants from using Matteawan State Hospital to house non-mental patient prisoners.

3. Preliminarily and permanently enjoin Defendants from transferring prisoners from Bedford Hills to Fishkill Correctional Facility or any institution in its complex.



4. Issue a preliminary and permanent injunction requiring Defendants to return Carol Crooks and Leslie Mason to Bedford Hills.

5. Issue a preliminary and permanent injunction requiring Defendants to return any member of the class presently at Matteawan who so desires, to Bedford Hills.

6. Issue a preliminary and permanent injunction restoring furloughs to Daisy Garcia and Gloria Jones, and other eligible women.

7. Issue a preliminary and permanent injunction requiring Defendants to delete any reference for the reasons for the transfer to Matteawan from Plaintiffs' institutional records.

8. Preliminarily and permanently enjoin men from entering the womens housing area unless their presence is announced and the women have ample opportunity to assure their personal privacy before the men enter the area.

9. Preliminarily and permanently enjoin Defendants from requiring Plaintiffs to come into close contact with mental patients.

10. Preliminarily and permanently enjoin Defendants from searching Muslim inmates when enroute to religious services.

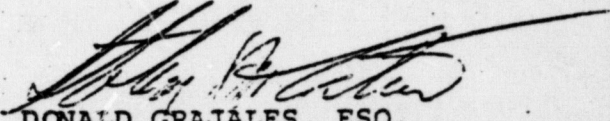
11. Preliminarily and permanently enjoin men from conducting personal searches of women inmates.

12. Preliminarily and permanently enjoin Defendants from restricting Plaintiffs' use of the prison law library.

13. Preliminarily and permanently enjoin Defendants from prohibiting inmates from discussing inmate liaison committee matters with the duly designated law clerk and law librarian.

14. Preliminarily and permanently enjoin Defendants from administering drugs or chemical therapy to Plaintiffs without a proper medical and psychiatric diagnosis.

15. Award such other and further relief as to the Court may seem just and proper.



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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DORIS ARMSTRONG, ET. AL.,

Plaintiffs,

-against-

BENJAMIN WARD, ET. AL.,

Defendants.

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NOTICE OF MOTION

75 CIV. 470 (WK)

S I R S:

PLEASE TAKE NOTICE, that the undersigned will move this Court before the Honorable Whitman Knapp, at Room 1105 of the U.S. Courthouse, Foley Square, New York, New York on May 2, 1975, at 2:00 P.M. or as soon thereafter as counsel can be heard for an order:

a) Pursuant to F.R.C.P. 23, certifying the action as a class action and declaring the class to consist of:  
(1) All women in the custody of the New York State Department of Correctional Services who have been or may be transferred to Fishkill Correctional Facility ("Fishkill"), including those women presently there.

b) Pursuant to F.R.C.P. 56, granting summary judgment in favor of Plaintiffs and against Defendants:

(1) Declaring that all transfers of women to Fishkill violate their rights under the Eighth and Fourteenth Amendments.

(2) Permanently enjoining the Department of Correctional Services from transferring any women to Fishkill, and (3) Directing Defendants to return to Bedford Hills, those women presently at Fishkill.

c) For such other and further relief as to the Court may seem just and proper.

Yours, etc.,

DONALD GRAJALES, ESQ.  
Project Director  
BRONX LEGAL SERVICES, CORP. C.  
579 Courtlandt Avenue  
Bronx, New York 10451  
Tel. (212)993-6250

BY: STEPHEN M. LATIMER, Of Counsel

RICHARD SINGER  
CHARLES JONES  
RUTGERS UNIVERSITY LAW SCHOOL  
PRISON LAW CLINIC  
180 University Avenue  
Newark, New Jersey



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DORIS ARMSTRONG, ET AL., :  
 :  
 Plaintiff,s :  
 :  
 -against- :  
 :  
 BENJAMIN WARD, ET AL., :  
 :  
 Defendants. :  
-----X

RULE 9G STATEMENT  
75 Civ. 470 (WK)

Pursuant to General Rule 9G, Plaintiffs submit the following statement of material facts as to which there is no genuine issue to be tried.

1. Before Jule of 1974, Plaintiffs were all incarcerated in Bedford Hills Correctional Facility.

2. Between July 1, 1974 and December 31, 1974 the following women were transferred from Bedford Hills Correctional Facility to Fishkill Correctional Facility:

- (1) DORIS ARMSTRONG
- (2) THERESA DURANTE
- (3) MARIA TORRES
- (4) BARBARA LEE
- (5) CAROL CROOKS
- (6) DAISY GARCIA
- (7) LESLIE MASON
- (8) GLORIA JONES
- (9) ETHEL CRAWFORD

- (10) MARGARET LEAK
- (11) LINDA JONES
- (12) DIANE BROWN
- (13) CARRIE WANNAMAKER
- (14) BERTHA WACK
- (15) REBECCA TRUESDALE
- (16) MARGO ALSFROOTIE
- (17) LORRAINE GESTON
- (18) LIZZIE GETER.

3. Fishkill Correctional Facility or a part thereof is designated as a Womans Prison.

4. None of the women transferred was given a hearing at which she could oppose the transfer.

5. None of the women transferred was given advance written notice of the transfer.

6. None of the women transferred was given a written statement of the reasons for the transfer or the facts relied on.

7. Each woman transferred to Fishkill or Matteawan, except Leslie Mason and Carol Crooks, was given a written examination prior to the transfer. They were never told the test results.

8. Until November 27, 1974, the women were housed in the hospital for the elderly and handicapped, (Building #13). On that day they were transferred to a wing of the building that houses the Matteawan State Hospital.

9. None of the women listed in Item 2 is committed to Matteawan State Hospital for reasons of mental or emotional illness.



10. By comparison with the cells at Bedford Hills, the cells in Building 13 are inferior in that:

- a) The lighting is poorer
- b) The cells are filthy
- c) The cells are rodent infested
- d) There was no hot running water.

11. The cells in Matteawan are vastly inferior to those at Building 13 and to the general housing area at Bedford Hills in that:

- a) There are no sinks or toilets in the cells.
- b) The lighting in the cells is inadequate.
- c) The cells are filthy.
- d) The cells are rodent infested.
- e) There are no hooks for hanging clothing in the cells.
- f) Prisoners cannot turn the light in the cells on and off. They must ask a guard who may or may not respond.
- g) Prisoners cannot regulate the heat in their cells.
- h) Prisoners cannot open or close the windows in their cells. They must ask a guard who may or may not respond.
- i) The cell windows are barred inside and outside.

12. Food is brought to the Womens Ward on a cart and is served in the day room. It is often served cold and unpalatable.

13. Exhibit "A" to Carol Crooks' Affidavit is a fair representation of the Womens Ward.

14. Male mental patients are required to pass through the Womens' Ward on their way from their housing area to certain activities. They often do so unannounced and at times when women are undressed.

15. Women prisoners are required to mix with male mental patients en route to or at certain activities. Occasionally, the men have made sexual advances to the women.

16. Both at Building #13 and at Matteawan, male guards are assigned to the Womens Ward. They are often on the ward unannounced and at times when women are undressed. The men occasionally look into a woman's room without announcing themselves first.

17. The following programs are available to women at Bedford Hills:

Academic Education Program Subjects Taught

H.S. Equivalency Preparation  
Correctness and Effectiveness  
of Expression  
Interpretation of Reading Materials in the Social Studies  
Studies Science  
Interpretation of Reading Materials in Literature  
General Math  
Office Practice  
Shorthand  
Business English  
Remedial Reading - A  
Remedial Reading - B  
Remedial Reading A & B  
Business Arithmetic  
Data Recording  
Typewriting  
Communication Skills  
Steno-Record Keeping

English  
Special Reading - II  
H.S. Equivalency Math  
A - Science  
C - Science  
C - Math  
Learning Lab. - Elem.  
Social Studies  
English - C.  
English Remedial - A & B  
Science - B  
English - B  
English Spec. I & II  
Bookkeeping  
Business Law  
Math - B  
Math - C  
Math Remedial  
Math - A



Vocational

Arts and Crafts  
Library  
Dance  
Photography

Occupational Education - Vocational

Beauty Culture  
Laundry  
Sewing  
Food Service

18. The only programs available to women at Matteawan are:

- a) Auto Shop
- b) Woodworking
- c) Occupational thereapy (consisting of knitting and crocheting.

19. The only school staffed by the prison administration for women at Matteawan is a part-time tutor for elementary school subjects.

20. The pay grade of each woman at Matteawan is substantially lower than it was at Bedford Hills.

21. Women at Matteawan are permitted to use the law library for less than one hour a day.

22. Women at Matteawan have been, and are subjected to strip-searches in the presence of men guards.

23. It is the policy of the Defendants to forcibly administer Phenothaizine drugs to women at Matteawan when they fell that doing so will promote effective custody and rehabilitation. That policy stated in statements of Dr. Sweeney and Defendant Ternullo submitted to this Court.

24. On August 28, 1974, while at Bedford Hills, Lt. Waterman asked Carol Crooks to go to segregation. She refused to

go unless she was served with written notice of the charges against her.

25. At about 10:20 P.M. on August 31, 1974, Carol Crooks was forcibly removed from her cell by six men guards. She was beaten, tied hand and foot, and physically carried to segregation by the men.

26. Carol Crooks remained in segregation until about 1:30 in the afternoon of September 1, 1974. Until that time she had received no notice of any charges against her and had not had a hearing on the reasons for being in segregation.

27. At 1:30 P.M. on September 1, 1974, Carol Crooks was taken from her cell by several men guards on the pretense that she had a visitor. Instead, she was put into a car and taken to Fishkill where she was keeplocked in her cell.

28. Carol Crooks remained in keeplock until September 6, 1974, without being advised of any charges against her. On that day she was served with notice of a Superintendents Proceeding to be held on September 9, 1974, for charges originating at Bedford Hills.

29. Leslie Mason is a transexual who has been surgically changed from male to female.

30. While at Bedford Hills, Leslie Mason was housed in Special Housing but was permitted to participate in all available programs.

31. On or about September 27, 1974, Leslie Mason was transferred to Fishkill and housed in Building #13. She was given no advance notice or opportunity to contest the transfer.



32. When Leslie Mason wrote to Commissioner Preiser about her transfer to Fishkill, she received the letter annexed as Exhibit "C" to her Affidavit.

33. Commitment Proceedings pursuant to Correction Law, §408, were initiated in Dutchess County Court against Daisy Garcia, Margaret Leak, Diane Brown, Ramona Wilkerson and Lizzie Geter. They were later withdrawn.

34. On April 3, 1975, all the women, except Carol Crooks, Leslie Mason, and the five named in Item #33 were returned to Bedford Hills.

35. On April 7, 1975, Commissioner Ward investigated the Womens Ward, spoke with Carol Crooks for forty-five minutes, and pronounced the Womens Ward not fit to live in.

36. On April 8, 1975, the remaining women, with the exception of Carol Crooks and Leslie Mason, were returned to Bedford Hills.

37. The Department of Correctional Services plans to use the Womens Ward for disciplinary cases from Bedford Hills.

Yours, etc.,

DONALD GRAJALES, ESQ.  
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Bronx, New York 10451  
Tel. (212)993-6250

RICHARD SINGER  
CHARLES JONE  
RUTGERS UNIVERSITY SCHOOL OF LAW  
PRISON LAW CLINIC  
180 University Avenue  
Newark, New Jersey

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\* \* \* \* \*

DORIS ARMSTRONG ET. AL., \*

Plaintiffs, \*

-against- \*

A F F I D A V I T

BENJAMIN WARD ET. AL., \*

Defendants. \*

\* \* \* \* \*

STATE OF NEW YORK) ss.:  
DUCHESS COUNTY )

CAROL CROOKS, being duly sworn says:

I am one of the Plaintiffs. I make this affidavit  
in support of Plaintiff's motion for summary judgment.

I was serving a sentence in Bedford Hills until  
cc September 1, 1974 when I was transferred to Fishkill  
Correctional Facility without notice or hearing. Four days  
prior to the transfer I was held in segregation without  
having been advised of any charges against me. On September  
cc 1, 1974 I was taken out of my cell and moved to Fishkill  
without being given opportunity to be heard on the issue and  
without being told the reasons for the transfer. That the  
transfer was meant to punish me for unknown acts is readily  
apparent from the facts described herein.

\*On August 28, 1974 at about 5:00 P.M. a guard came  
to me and told me to go to segregation to speak to Capt.  
Wooley. I knew that if I went to that building I would be  
locked in. Because I had received no notice of any charges



against me I refused to go. The guard left.

At about 7:45 P.M. Lt. Waterman asked me to go to segregation. I told her that under the injunction issued by Judge Brieant in Crooks v. Warne 74 Civ 2351, they must serve me with written notice of charges before they could put me in segregation. She left.

After I was locked at 10:00 P.M. that night, Lt. Waterman accompanied by at least six men came to my door. She again asked me to go to segregation. I again replied that I would go after I was served with written notice of the charges. In the meantime, other women shouted to me that the guards had teargas cannisters and clubs. I became afraid for my life and prepared to defend myself.

The guards then threatened me, which made me even more fearful. Finally the door opened and the guards entered. They tied me up, beat me and kicked me. I resisted because I thought I would be killed if I didn't. Finally after I was bound hand and foot the men picked me up and carried me down half a flight of stairs, and dropped me the rest of the way. They then put me in a car and took me to segregation.

That night I was left in segregation in Room 46 in my underclothes. The window was wide open and there was no bed or blanket in the cell. Although I was bleeding and

badly hurt by the guards attack I was not seen by a doctor. Finally, at 5:30 A.M. a blanket was put in my room, but it was not until August 29, 1974 at 12:30 P.M. that my window was closed. At about that time Dalree Mapp, another prisoner, saw me and demanded of Mrs. Warne and Mr. Curry that I be given a mattress, sheet and some clothes. Dalree also told me that Mrs. Warne told her that I would be released from segregation by 6:00 P.M. However, that never happened and I stayed in segregation until Sunday, September 1, 1974.

At about 1:30 P.M. on September 1, 1974, I was told by a guard that I had a visitor. I left my room to take a shower. When I returned to get dressed for the visit I was told that I was to be locked in. This was contrary to custom and I protested. Finally, after I saw men guards on the floor, I went into my room to get dressed. When I came out of my room I was confronted by the men, shackled and placed in a car. Instead of being taken to the Administration Building where visits are held, I was taken off the grounds and transported to Fishkill. I had none of my personal belongings with me. No one, then or ever, told me why I was transferred.

Later I learned that while this was happening to me, my mother was waiting at the front gate of the prison to visit



me. She was not told that I had been shipped to Fishkill until two hours after the car carrying me had passed through the front gate.

When I arrived at Fishkill I was placed in a cell in a wing of the hospital for the elderly and handicapped. I was kept locked in that cell until September 6, 1974 for 23 hours a day without being told of any charges against me. On that date I received notice of a Superintendents Proceeding to be held on September 9, 1974. I was thus held in solitary confinement for thirteen days in two different prisons without any disciplinary proceedings.

For the first week at Fishkill, I had no clothes or shoes other than what I was wearing, and no reading or writing materials. It was not until September 7, 1974, six days later, that some of my personal belongings including clothes and My Q'ran arrived from Bedford Hills.

The living conditions at the elderly and handicapped are much worse than at Bedford Hills. My cell was filthy and mice infested. The only light was a dim yellow bulb that provided barely enough light to read by. The toilet in my cell was broken when I arrived and there was no hot running water. As the Court may be aware, I spent several months in segregation at Bedford Hills but I never lived in a cell as decrepit as the ones assigned to the women prisoners at Fishkill.

Male guards were assigned to the women's wing and often came on the floor uninvited and unannounced, even though they knew that women would be in various stages of undress. Mr. Neil Breen, the program co-ordinator, and other men would often and unexpectedly look into my room through <sup>open</sup> the small ~~glass~~ window in the door without announcing themselves, and with no regard for my privacy. They have caught me when I was undressed and even when I was sitting on the toilet. On one occasion, a male guard accompanied me to the shower and posted himself where he could watch me. Needless to say I was greatly embarrassed on these occasions. Furthermore, I am a Sunni Muslim and my religious beliefs require me to be modest at all times in the presence of men. ~~XXXXXXXXXXXX~~ I could not follow that commandment.

Several other women told me that they had been sent to Fishkill because they are "slow learners." The only school they had at Fishkill was conducted in the corridor of our wing by a part-time tutor. The class was interrupted every time someone else had to walk through the area.

On November 23 , 1974 I was brought to Rikers Island to testify before Judge Stewart in Powell v. Preiser 74 Civ 4628. I was brought back to Fishkill on December 18, 1974 and was surprised to find that the women, including me, had been moved into the same building as Matteawan State Hospital.



The ward we lived on at Matteawan is even more deplorable than at Fishkill. There are no toilets in the rooms and we have no running water. The cells are filthy and mice infested. Although we have a lockbox in the cell there are no hooks for hanging clothes. I cannot turn the light in my cell on or off nor can I open or close the window, nor can I regulate the heat in the cell. I must ask a guard to do all these things. In contrast, at Bedford Hills, except in the segregation cells, the prisoner controlled heat, light and windows in her cell.

In Matteawan, not only do male guards come on the ward as they did at Fishkill, but male mental patients pass freely through the ward on the way to chapel. Annexed as Exhibit A is a floor plan of our living area. The men patients enter our ward at the door marked "1", pass through the living area and leave by the stairs Marked "2". They come through the ward unannounced and with no regard for whether or not we are dressed. I have been embarrassed on several occasions by these men. When we pass through the mental patient areas to go to the movies and commissary, (as we must), I have seen men make sexual passes at women.

\* I am a Sunni Muslim and devoutly follow the tenets of my faith. On several occasions I and other Muslim women have been forced to submit to a search before we would be

allowed to attend religious services. No women of other religions are searched as a condition of attending religious services. Despite repeated requests, the administration refuses to give me the religious headdress that I am required to wear. My attorney advises me that the authorities are violating my First Amendment right to freely exercise my religion.

In addition to the searches mentioned above, on one occasion I saw Doris Armstrong forced to undergo a strip search in the presence of Mr. Card and other men. She had a visit from her family and was told she could not go on that visit unless they searched her. On the same day I was only given a frisk search before I saw my visitor.

At Bedford Hills there was a wide range of educational vocational and other programs for us. There were enough programs so that we could have our choice of a morning, afternoon and evening program. At Fishkill, and now at Matteawan the only activities available to women prisoners are auto shop and woodworking, which only began in December 1974. Those programs are totally unsuited to my needs and goals.

In addition, at Bedford Hills I participated in a high school equivalency program and a college program sponsored by Westchester Community College. The only school at Fishkill



and at Matteawan is conducted by a tutor who teaches no subjects above a sixth grade level.

Because there are no programs suitable for us, the daily routine which is set out below leads to excessive boredom.

MON. \_\_\_\_\_ FRI.

	6:30 A.M.	OUT OF ROOM
	7:00 A.M.	Food
	8:00 A.M.	Nurse ( Medication )
	8:30 A.M.	School ( 10:45 )
c.c.	10:45 A.M.	<i>only</i> Legal Library ( <del>11:35</del> ) <i>2 1/2 hrs ea. Tue &amp; Thur. c.c.</i>
	12:00 P.M.	Food
	1:30 P.M.	O.T. ( Knitting )
	3:00 P.M.	Floor
	4:30 P.M.	Food
	10:00 P.M.	Room

TUESDAY and THURSDAY

8:30 A.M.	Wood Work and Auto Shop (1/2 Day)
11:00 A.M.	Floor

SATURDAY and SUNDAY

c.c.	10:45 A.M.	Legal Library	11:20 A.M.	c.c.
	<del>10:45 A.M.</del>	<del>Legal Library</del>	( <del>11:20 A.M.</del> )	<del>c.c.</del>
	3:00 P.M.	Movie		

Although there is nothing for us to do between 6:30 and 10:45, if we don't go to school, we must get up at 6:30 A.M. or receive a misbehavior report. (A copy of the posted notice is annexed as Exhibit B).

We are scheduled to use the law library for fifty minutes per day. However, the time going and coming from the library is often included in that fifty minutes, with the result that we actually spend only thirty-five to forty minutes in the library. Because we do not have fully developed research skills, an hour is not sufficient time to do effective research. Thirty-five minutes is useless. Moreover, during a substantial portion of the time that we women were at Matteawan, we were not permitted to discuss legal matters that arose at Inmate Liaison Committee meetings with the legal assistants who work in the law library. My attorney advises me that these practices constitute an unconstitutional abridgment of my freedom of speech, and an unconstitutional interference with my access to the courts.

On April 3, 1975, all but seven women who had been sent to Matteawan from Bedford Hills were sent back to Bedford. On Monday, April 7, 1975, Commissioner Ward visited Matteawan and interviewed me. He told me that the female unit of Matteawan was filthy, dirty and not fit for human habitation. In the next breath he told me that there were



some behavior problems at Bedford Hills and that Matteawan would become "a warehouse for disciplinary problems," and that I would be a problem to him as long as I persisted in trying to help others. The next day five more women were sent back to Bedford Hills. As of today, only Leslie Mason and I live in the female unit of Matteawan. The conclusion is inescapable that we are being punished, cruelly and unusually, without due process of law, for offenses unknown to us. I, therefore, request that summary judgment be granted returning Leslie Mason and me to Bedford Hills and prohibiting any further transfers of women prisoners to Fishkill.

Carol Crooks  
CAROL CROOKS

Sworn to before me, this  
14 day of April, 1975.

Stephen M. Latimer  
NOTARY PUBLIC

STEPHEN M. LATIMER  
Notary Public, State of New York  
No. 03-7438020  
Qualified in Bronx County  
Commission Expires March 30, 1976

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK:

\*\*\*\*\*  
DORIS ARMSTRONG et. al., \*

Plaintiffs, \*

-against- \*

BENJAMIN WARD et. al., \*

Defendants. \*

\*\*\*\*\*

STATE OF NEW YORK )  
DUCHESS COUNTY ) ss.:

A F F I D A V I T

LESLIE MASON, being duly sworn deposes and says:

I am one of the Plaintiffs I make this affidavit in support of plaintiffs motion for summary judgment.

I am a trans-sexual and was surgically changed from male to female in 197<sup>6</sup><sub>D</sub>. My body, and my psyche, function in all respects as that of a woman. While I was a Bedford Hills, I was housed in the special housing unit, but I participated fully in the same programs as the general population.

I got along reasonably well with the other inmates and to my knowledge did not cause any security or disciplinary problems. Yet, on September 27, 1975, I was told to get my personal belongings, I was being transferred to Fishkill, I was not given any opportunity to oppose the transfer.

I was spirited away under the pretense that a program better than at Bedford Hills existed and was waiting for me.



When I got to Fishkill I found that there were no programs at all for me and that conditions were as bad or worse than stated in Carol Crook's affidavit, which I have read.

I then wrote to Commissioner Preiser requesting the reasons for my transfer. An assistant in the Department of Correctional Services responded saying that I experienced difficulty "in adjusting to the Bedford Milieu" and hoping that my time at Fishkill would "be more productive". A copy of that letter is annexed as Exhibit C. I found it impossible to do anything "productive" at Fishkill because of the intolerable living conditions and the lack of programs.

I served as president of the Female Inmate Liaison Committee during most of my stay at Fishkill /Matteawan. I am thus thoroughly familiar with the conditions all the women were subjected to. I agree with Carol Crooks description of the living areas in both Fishkill and Matteawan, and adopt that description as my own. The food is brought to us on a food truck and is served in the day room. Hot foods often reach us cold. There is no seasoning for the food and it is worse than tasteless. At Matteawan we have no refrigerator and during the winter months could only keep milk and other foods fresh by placing them on a window ledge.

The memorandum directing that men are not to enter the womens housing area unannounced is ignored by the staff. They enter our ward and open our cell doors without announcing themselves and with total disregard of our privacy. Even if

they don't open the door, the men freely look in the observation window in the door.

We were moved into Matteawan on November 27, 1974. The cells there were filthier and more execrable than at Fishkill. There was no toilet or hot running water. I was keeplocked in my cell from November 29, 1974, to December 4, 1974. Ms. Ruane, a guard, refused to let me go to the bathroom down the corridor. I was forced to urinate and defecate on the floor of my cell until I was let out of keeplock.

As president of the Female Inmate Liaison Committee I discussed many of the problems with Mr. John Card and Mr. Kevin Melia. I was told by them that the Correction Department doesn't have the room to house the women as we ought to be housed, nor is there money to provide the women with the educational and vocational programs we are entitled to. Thus we are left with a school consisting of one teacher for all grades up to six, and no educational facilities beyond that. There is thus no educational program for me.

Commissioner Preiser had directed that inmates transferred from one prison to another continue to be employed in the same pay grade. Following is a schedule as of January 3, 1975, showing pay grades of each woman at Matteawan compared with her pay grade at Bedford Hills. In every case, the prisoner earns less at Matteawan than at Bedford.

(1) DORIS ARMSTRONG	BEDFORD	.55	M.S.H.	.25
(2) THERESA DURANTE		.55		.25



(3) MARIA TORRES	1.15	.25
(4) BARBARA LEE	.75	.35
(5) CAROL CROOKS	.85	.00
(6) DAISY GARCIA	.55	.25
(7) LESLIE MASON	1.15	<sup>6.11</sup> .15
(8) ETHEL CRAWFORD	1.15	.35
(9) GLORIA JONES	.70	.25
(10) MARGARET LEAK	.75	.35
(11) LINDA JONES	1.15	.35
(12) DIANE BROWN	.40	.25
(13) CARRIED WANNAMAKER	1.15	.25
(14) BERTHA WACK	.75	.35
(15) REBECCA TRUESDALE	.90	.35
(16) MARGO ALBERGOTTIE	.45	.35
(17) LORRAINE GESTON	.45	.35
(18) LIZZIE GETER	.45	.25.

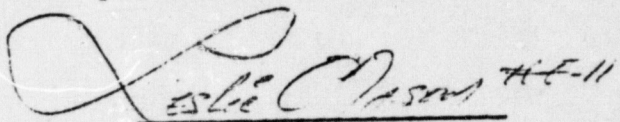
While at Bedford Hills, I earned \$1.15 per day in industry, at Fishkill I worked as a beautician for \$.60 per day. At Matteawan I now earn \$.35 per day for mopping floors, 30% of what I was earning at Bedford Hills.

Our medical treatment here is much worse than at Bedford Hills. There is no gynecologist available to care for female medical problems, and there are no provisions for feminine hygiene. Bertha Wax, Carol Crooks and Doris Armstrong all had severe medical problems. The only care they received came after repeated and persistent pressure on the administration.

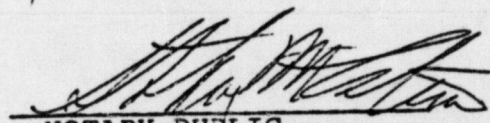
In addition to these problems, on several occasions I and the other women representatives to the Inmate Liaison Committee ("I.L.C.") have been denied permission to attend those meetings. More than once I submitted an agenda of items we felt warranted discussion. We were not told of the date of the I.L.C. meeting and decisions were taken on agenda items that we discussed, without our participation.

On April 3, 1975, and April 8, 1975, all the women were transferred back to Bedford Hills except Carol Crooks and me. We are housed in a wing of a mental institution, and are the only prisoners in that wing. We are isolated from our sister prisoners at Bedford Hills. We are denied participation in any meaningful rehabilitative program. We are in effect held in solitary confinement. Yet we have received no notice of any disciplinary charges, nor were we given at a hearing at which we could present evidence opposing the transfer, <sup>or</sup> a written statement of the facts relied on when the transfer decision was made. We are being punished cruelly and unusually without any due process of law.

I therefore request that plaintiffs motion for summary judgment be granted.

  
LESLIE MASON #E-11

Sworn to before me this  
14 day of April, 1975.

  
NOTARY PUBLIC.

STEPHEN M. LATIMER  
Notary Public, State of New York  
No. 05-740000  
Qualified in Bronx County  
Commission Expires March 31, 1976

52a



DORIS ARMSTRONG, ET. AL., :  
 :  
 Plaintiffs, : AFFIDAVIT  
 :  
 -against- :  
 :  
 BENJAMIN WARD, ET. AL., :  
 :  
 Defendants.

One week after I took the test I spoke with Ms. Pringle who is a guidance counsellor at Bedford Hills. She told me that the purpose of the test was to decide who to send to Fishkill and that I was not "Fishkill material." She told me that she would speak to Mr. Curry.

Sometime in December, 1974, I spoke with Ms. O'Shaughnessy who is also a guidance counsellor. She said she didn't think I belonged in Fishkill, that I was doing well at Bedford and that I was involved in programs and had family in New York City. She said that Fishkill had nothing to offer women.

On December 21, 1974 Lt. Cradle told me that I was going to Fishkill and that my family had been notified of the upcoming transfer. I was never given written notice, nor was I told the reason for the transfer. At that time I asked Lt. Cradle if I could make a telephone call to my family so that I could tell them about the transfer. Lt. Cradle refused to let me call.

On December 26, 1974, my family came up to visit me. They had not been notified of the transfer and asked to see Ms. Warne, or someone else in charge. They saw Mr. Boss, who told them in my presence that if the programs in Fishkill were not sufficient, they should call him and he would see about returning me to Bedford Hills.

When I got to Matteawan, on December 27, 1974, I was given a cursory physical examination by Dr. Seyhun. She only asked me some questions about my health. When I told Dr. Seyhun that I had problems with my eyes she prescribed eye drops without further examination. Since the drops hurt my eyes, I had to stop taking them. I asked Dr. Seyhun to let me see Dr. Haggart, the specialist I had been going to when in Bedford Hills. She refused. Telling me that I was not in



Bedford anymore. I didn't see a doctor for my eyes until January 17, 1975.

Dr. Seyhun also asked me if I wanted Thorazine or sleeping medication. I refused and told her that I didn't take that kind of medicine.

On December 28, 1974, my family came to visit me at Matteawan. I was telling them about the poor conditions there when a correction officer interrupted the visit. She said that I had passed a letter to my brother-in-law and called some male officers. The letter was a letter I had received from my attorney.

When my family asked to see someone in charge, Mr Card came in and told them, in my presence, that he didn't know why I was sent to Matteawan and that they weren't prepared for the women who had come from Bedford Hills.

On January 3, 1975 I wanted to go to Muslim services as I am a Sunni Muslim. Everyone was told that they would have to be searched before they could go. I was searched by Ms. Carhart and Ms. Barlo in front of Mr. Card who is the Director of Programs, and I was forced to take off my shirt and pants. I was humiliated and embarrassed as my beliefs and religion say that I must be modest in the presence of men. I was stripped and searched every week on my way to services and was not allowed to wear the Muslim dress, as I had been allowed to at Bedford Hills.

The corridor I lived on at Matteawan afforded me no privacy. Male guards were frequently on the floor and looked into my room through the window pane on the door without warning. On one occasion men guards saw me as I was returning to my room from the shower. In addition, the male mental patients frequently had to pass through our living area. They, as well as the male officers, made several passes at me and the other women. After one such incident, I complained to Ms. Baker and she told me that there was nothing she could do because I was a woman.

My guidance counsellor, Mr. Mealia, made sexual advances toward me, and said that he "liked colored women". I told him to leave me alone and wrote two letters to Mr. Turnello (the Superintendent) asking that he be removed as my counsellor. That request was denied.

My room at Matteawan had barred windows which we were not permitted to have open. The room was dingy and dirty, and the paint on the walls was peeling. There were rats and mice, which frightened me. There was no sink or toilet, and no place to hang my clothes. In contrast, my room at Bedford Hills is clean, newly painted, with adequate ventilation and furniture. There is also a sink and a toilet there.

The food at Matteawan was cold and stale. I sometimes found roaches in it. We were not given enough to eat, and rarely got fruits or vegetables. The food at Bedford Hills is edible, and we are allowed to have second portions.



At Bedford Hills I was involved in the following programs: Reality House and photography and the school program classes in Math, English and Social Studies. At Matteawan the only program that is available to me is the classes taught by two volunteer teachers; once a week on Thursday evenings.

When I was at Bedford Hills I worked as a counter-woman in the cafeteria and was paid 45¢ a day. I was also paid for being in the school program. At Matteawan I scrubbed the bathrooms and was paid only 25¢ a day.

At Matteawan we were allowed about 20 minutes a day in the yard. There were big rats there. At Bedford Hills we were allowed out doors in the yard one to two hours each day.

On April 3, 1975, I was sent back to Bedford Hills. As me and the other women were going to the bus that would take us back, the Officer-in-Charge, Ms. Ruane, said that everyone had to be searched. I protested and said I was glad that we were leaving Fishkill Facility. Ms. Ruane, who has often been abusive and taunted the women, said that we were never in Fishkill and that we were actually "Matteawan patients." Our hands and feet were shackled, and we were returned to Bedford Hills.

I believe that my constitutional rights were violated by my transfer to Matteawan and respectfully ask the Court to enjoin any further transfers and to return the remaining two women to Bedford Hills.

Sworn to before me, this  
16 day of April, 1975.

STEPHEN M. LADDICK  
Notary Public, State of New York  
No. 03-743820  
Qualified in Bronx County  
Commission Expires March 30, 1976

*Doris Armstrong*  
DORIS ARMSTRONG

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\* \* \* \* \*

DORIS ARMSTRONG ET AL.,

Plaintiffs,

-against-

BENJAMIN WARD ET AL.,

Defendants.

\* \* \* \* \*

A F F I D A V I T

STATE OF NEW YORK) ss.:  
DUCHESS COUNTY )  
WESTCHESTER

MARGARET LEAK, being duly sworn says:

I am one of the Plaintiffs. I make this affidavit  
in support of Plaintiffs' motion for summary judgment.

I was serving a sentence in Bedford Hills until  
December 27, 1974 when I was transferred to Fishkill  
Correctional Facility without a hearing.

On November 11, 1974 myself and other inmates were  
given a test. Mr. Curry told me on Black Solidarity Day that  
I was going to Fishkill. He told us that the test had been  
to see who would go to Fishkill. He did not tell us when  
we were going. This was about two weeks before the actual  
transfer. At no time were we told that we could contest  
the transfer. On December 26, 1974, they told us we were  
leaving the next day. The day after I got there, Dr. Seyhun  
asked me if I was taking medication. I said yes, sleeping  
medication. Then she gave me something that made me sick.



The ward we lived on at Matteawan is deplorable. There are no toilets in the rooms and we have no running water. The cells are filthy and rat infested. Although we have a lockbox in the cell there are no hooks for hanging clothes. We are not allowed to paint, decorate, or put up curtains. The guards control the heat, light and windows. They search the rooms every two weeks. In contrast, at Bedford Hills, except in the segregation cells, the prisoner controlled heat, light and windows in her cell. At Bedford we had private rooms with curtains and we could paint or decorate. There was a toilet and a sink. It was clean.

I took arts and crafts and attended school in Group I. I worked in the laundry for \$.75 a day and cleaned the floors for \$.35 a day. At Matteawan there were no programs or work for me but I did go to school and was paid \$ .20 a day. The school was in the dayroom upstairs and there was one teacher named Bob.

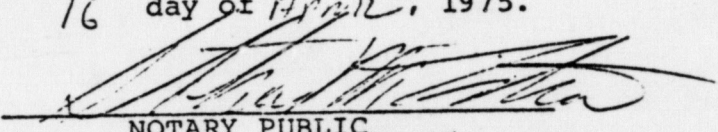
The food at Matteawan came around on a food truck, and was usually cold by the time it got there. At least the milk was usually fresh.

I was returned to Bedford Hills on April 8, 1975. My hands and feet were shackled on the way back, although this had not been done on the way to Matteawan. On April 3, 1975 I saw the Parole Board. They asked me questions about

living at Fishkill, and told me they had a bad report about Fishkill. Annexed as Exhibit "D" is a parole decision notice stating that I will not be eligible until May 1976.

Margaret Leak  
MARGARET LEAK

Sworn to before me, this  
16 day of April, 1975.

  
NOTARY PUBLIC

STEPHEN M. LATIMER  
Notary Public, State of New York  
No. 06-7488920  
Qualified in Bronx County  
Commission Expires March 30, 1976



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\* \* \* \* \*

DORIS ARMSTRONG ET. AL.,

Plaintiffs,

-against-

BENJAMIN WARD ET. AL.,

Defendants.

\* \* \* \* \*

STATE OF NEW YORK)

DUCHESSE COUNTY ) ss.:

WESTCHESTER

A F F I D A V I T

DAISY GARCIA, being duly sworn says: I am one of the Plaintiffs. I make this affidavit in support of Plaintiff's motion for summary judgment.

I was serving a sentence in Bedford Hills until December 27, 1974 when I was transferred to Fishkill Correctional Facility without notice or hearing. The only semblance of notice I received was that I was told that my name was on a transfer list about a week before I left. On December 27, I was moved to Fishkill without being given opportunity to be heard on the issue and told only that I was being transferred because I was a slow learner.

At Bedford, I was a youthful offender housed in 114A, separate from the rest of the general population. I turned 18 in September. Some of the inmates, including myself, were given a test on November 11, 1974. Shortly thereafter we were transferred to Matteawan.

The ward we lived on at Matteawan is deplorable. There are no toilets in the rooms and we have no running water. The cells are filthy and rat infested. Although we have a lockbox in the cell there are no hooks for hanging clothes. We are not allowed to paint, decorate or put up curtains. The guards control the heat and light. In contrast, at Bedford Hills, except in the segregation cells, the prisoner controlled heat, light and windows in her cell. The food was often spoiled at Matteawan and served cold most of the time. At Bedford I had a radio, but I was not allowed to keep it at Matteawan because it had a police band.

In Matteawan, not only do male guards come on the ward as they did at Fishkill, but male mental patients pass freely through the ward on the way to chapel. Once when men came onto the floor while I was undressed I had to run inside the room. Mr. Card looked into the room once without announcing himself. One time on the way to church a male mental patient tried to make a sexual pass at me. Another time the same patient started cursing at me.

At Bedford Hills there was a wide range of educational vocational and other programs for us. I attended bible class, typing class and school, group C. At various times I worked in the laundry at \$.35 a day, in industry at \$1.15 a day, and in the cafeteria at \$.35 a day. At Matteawan I did not attend school and worked in the corridor at



\$.25 a day. Occupational therapy consisted of crocheting and sitting around.

DAISY GARCIA

DAISY GARCIA

Sworn to before me, this  
16 day of April, 1975.

NOTARY PUBLIC

STEPHEN M. LATIMER  
Notary Public, State of New York  
No. 00-700310  
Qualified in Bronx County  
Commission Expires March 31, 1976

I AM supposed TO see my PAROLE BOARD  
YESTERDAY AT 3.30 PM  
IN JUNE I met with MRS WHITE my PAROLE officer  
Told me THAT when I go TO BOARD I could  
EXPECT FIVE MORE MONTHS IN PRISON BECAUSE  
WAS SENT TO FISH KILL

DAISY GARCIA

Sworn To before me  
April 16, 1975

NOTARY PUBLIC

STEPHEN M. LATIMER  
Notary Public, State of New York  
No. 00-700310  
Qualified in Bronx County  
Commission Expires March 31, 1976

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

\* \* \* \* \*

DORIS ARMSTRONG ET AL.,

Plaintiffs,

-against-

BENJAMIN WARD ET AL

Defendants.

\* \* \* \* \*

STATE OF NEW YORK)

DUGHESS COUNTY ) ss.:

WESTCHESTER

A F F I D A V I T

THEREASA DURANTE, being duly sworn says:

I am one of the Plaintiffs. I make this affidavit  
in support of Plaintiff's motion for summary judgment.

I was serving a sentence in Bedford Hills until I  
was transferred to Fishkill Correctional Facility on  
December 27, 1974 without notice or hearing.

They never told my family that I was transferred  
the Matteawan. Before the transfer Mr. Curry told us that  
Fishkill was a new building, a nice place with new furniture  
and facilities, but that was a lie.

After we arrived at Matteawan, Mr. Card told people  
that they were slow learners and that Bedford Hills was  
overcrowded. At Fishkill we had to get up at 6:30 a.m. to  
wash and have breakfast. I refused to get up at 6:30 a.m.



because there was nothing to do, and got a misbehavior report because of it.

At Bedford Hills, I went to school in the morning. The program I was in was Remedial A. I also worked in the laundry industry for \$.55 a day. At Matteawan I earned \$.25 a day mopping and sweeping. I also went to school at Matteawan but the teacher provided no help. I didn't know if he is a real teacher. The teacher had no interest in teaching women.

The food at Matteawan was not as good as the food at Bedford Hills. On at least one occasion I saw a cockroach on the food wagon that brought us our meals at Matteawan.

On April 9, 1974, I was transferred back to Bedford Hills and put in the classification unit. While we were waiting for the bus, Ms. Ruane told us, "I might as well tell you this is Matteawan State Hospital." I was assigned to work in the cafeteria in the morning and school in the afternoon. I don't know what grade yet. When I went back to Bedford Hills, Ms. Ruane told me that they were going to send a group of troublemakers to Matteawan instead of us.

Thereasa Durante  
THEREASA DURANTE

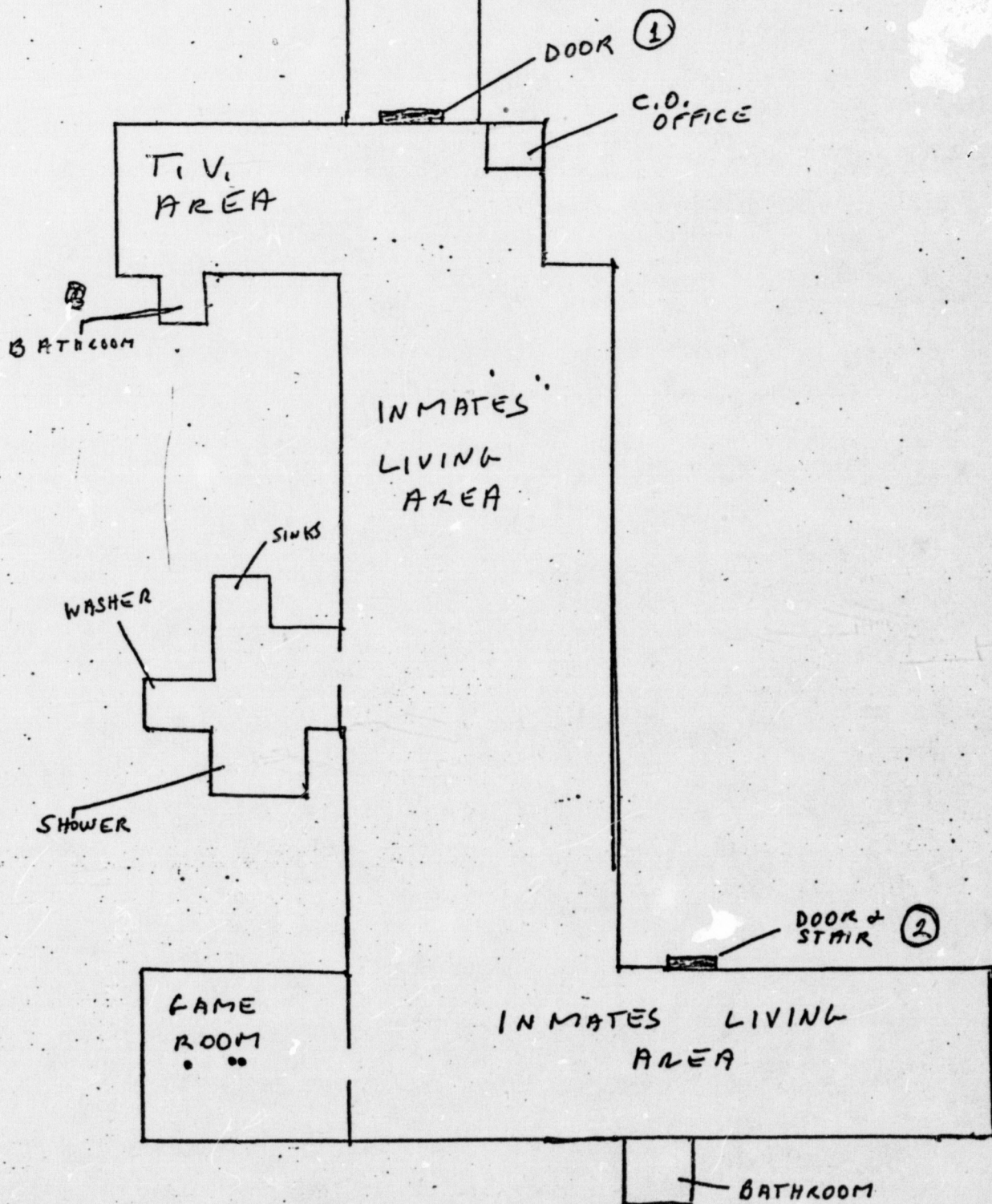
Sworn to before me, this

16 day of April, 1975

Notary Public  
NOTARY PUBLIC

STANLEY L. LATIMER  
Notary Public, State of New York  
No. 03-7402100  
Qualified in Bronx County  
Commission Expires March 30, 1976

MENTAL PATIENT  
HOUSING AREA



NOT DRAWN TO SCALE  
EXHIBIT A



ALL INMATES WILL GET  
UP AND GET DRESSED AT

6 <sup>30</sup> AM. IF ANY REFUSE

THEY WILL BE GIVEN

A CHARGE

order of

Mr V. Smith

EXHIBIT B

66a

STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONAL SERVICES

THE STATE OFFICE BUILDING CAMPUS

ALBANY, N.Y. 12226

PREISER  
SIONER

October 17, 1974

Miss Leslie Mason  
F-11  
Fishkill Correctional Facility  
Box 307  
Beacon, New York 12508

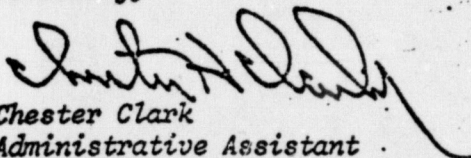
Dear Miss Mason:

Your communication of October 9, directed to Commissioner Peter Preiser, has been referred to this office for reply.

As concerns any plans you may have had relating to work release, please be advised you can initiate consideration for such program from Fishkill in the same manner you would have done so from Bedford Hills. Your transfer has therefore imposed no hardship in this area.

The transfer was initiated due to the difficulty you experienced in adjusting to the Bedford milieu. Hopefully, your time at Fishkill will be more productive.

Sincerely,

  
Chester Clark  
Administrative Assistant  
Program Services

bes

67a

EXHIBIT C



STATE OF NEW YORK-DEPARTMENT OF CORRECTIONAL SERVICES

PAROLE BOARD DECISION NOTICE

Name LEAK, Margaret  
Institution Fishkill Correctional Facility -  
Female Unit  
Number F-18

Date April 3, 1975

The Board of Parole at the 4/75 meeting rendered the following decision

M. P. I. - 2 years.

5/76 Board.

E. Lynch  
Eugene Lynch, Senior Parole Officer

FORM 3008 REV 7/73

EXHIBIT D

68a

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

DORIS ARMSTRONG, ET. AL.,	:	
Plaintiffs,	:	
-against-	:	75 Civ. 470
BENJAMIN WARD, ET. AL.,	:	OBJECTIONS TO 9(G)
Defendants.	:	STATEMENT

-----X

Pursuant to General Rule 9G, defendants object to the following parts of plaintiffs' 9G statement as constituting "material facts as to which there is no genuine issue to be tried."

FIRST: Object to so much of paragraph 8 of plaintiffs' 9G statement as alleges that Building 13 is or was designated the hospital for the elderly or handicapped. The Building referred to was originally used as a treatment center by the Narcotics Abuse Control Commission (NACC). When the NACC program was phased out, it was then used to house insane female patients in part and the elderly and handicapped in part. However, before any women from Bedford Hills were housed in Building 13, all other inmates were moved to other parts of the complex. Further object to so much of the allegations therein as alleges or can be construed to allege that the women subsequently housed at the main building were in any way treated as being in Matteawan State Hospital. The wing in which the women were housed had a separate entrance and separate living quarters. There was no contact between plaintiffs and any male patients or inmates or any female insane patients.



SECOND: Object to so much of paragraph 10 of plaintiffs' 9G statement as alleges the lighting in the rooms at Building 13 of Fishkill were poorer than at Bedford Hills, and that the rooms were either filthy or rodent infested; and although there was no hot running water in each room, hot running water was available in a central area.

THIRD: Object to so much of the allegations contained in paragraph 11 of plaintiffs' 9G statement as alleges that the cells at Matteawan are inferior to those at Bedford Hills and to so much of the specifics as allege that the lighting was inadequate, the cells (rooms) were or are filthy and/or rodent infested; and although there were no sinks or toilets in the rooms, such were available in a central area and the rooms were not locked except upon an inmate's request; and although there were no hooks in the rooms, there was adequate storage space in each room, consisting of a locker with shelves and a night stand; that at both Bedford Hills and at Fishkill, the lighting in the rooms were controlled by a "key" switch; and that the building is centrally heated; and that the room windows are not barred inside and out, but have security screens on the inside.

FOURTH: Object to so much of the allegations in paragraph 12 of plaintiffs' 9G statement as alleges that the food served the plaintiffs was "cold" or otherwise unpalatable.

FIFTH: Object to all of the allegations contained in paragraph 14 of the 9G statement.

SIXTH: Object to all of the allegations in paragraph 15 of the 9G statement, except that on occasion the women requested that they be permitted to mix with male prisoners at

movies and at muslim services and at such occasion there may have been sexual advances made by the males, but that such advances were frequently at the encouragement of plaintiffs class members.

SEVENTH: Object to all of paragraph 16 of the 9G statement except that, as at Bedford Hills, male correction officers were used when there was trouble on the unit, and that institution policy and practice was not to allow males on the unit without first announcing themselves.

EIGHTH: Admit paragraph 17, but object to so much of that paragraph as alleges that plaintiff or those transferred to Fishkill participated in all or substantially all of those courses.

NINTH: Object to all of paragraph 19 of plaintiffs' 9G statement.

TENTH: Object to all of paragraphs 20, 21 and 22 of plaintiffs' 9G statement.

ELEVENTH: Object to all of paragraphs 24-28 of the 9G statement as irrelevant to the instant action, and presently the subject of another action in this Court under the caption Crooks v. Ward, 74 Civ. 4628 CES, in which the Court refused to grant a preliminary injunction involving inter alia said Superintendent's Proceeding.

TWELFTH: Object to so much of the allegations in paragraph 36 as can be construed to allege that plaintiffs Crooks and Mason are still at Fishkill; that in fact, plaintiff Crooks was returned to Bedford Hills Correctional Services on April 22, 1975; and plaintiff Mason was placed at Parkside Correctional Facility.



THIRTEENTH: Object to all of paragraph 37 of plaintiffs' 9G statement.

Yours, etc.,

LOUIS J. LEFKOWITZ  
Attorney General of the  
State of New York  
Attorney for Defendants  
By

STANLEY L. KANTOR  
Assistant Attorney General  
Office & P.O. Address  
Two World Trade Center  
New York, New York 10047  
Tel. No. (212) 488-5168

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DORIS ARMSTRONG, ETC. AL.,

Plaintiffs,

-against-

BENJAMIN WARD, ET. AL.,

Defendants.

75 CIV. 470 (WK)  
AFFIDAVIT

STATE OF NEW YORK )  
:SS.:  
COUNTY OF WESTCHESTER )

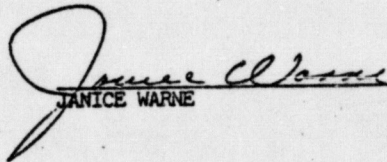
JANICE WARNE, being duly sworn, deposes and says:

I am the Superintendent of the Bedford Hills Correctional Facility, a facility operated by the New York State Department of Correctional Services for the general confinement of sane, adult female felons and one of the defendants herein. I submit this affidavit in opposition to plaintiffs' application for summary judgment.

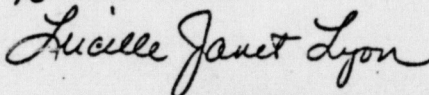
I have read the foregoing objections posed to plaintiffs' statement, pursuant to Rule 9G of the General Rules of this Court.

It should be noted that hot water is not available in the inmates' rooms in Buildings 112, 113, and 114. Hot water is available in the inmates' rooms in Building 111.

The objections posed, insofar as they concern the facilities and operations at the Bedford Hills Correctional Facility, are true and accurate.

  
JANICE WARNE

Sworn to before me this  
16<sup>th</sup> day of May, 1975.



LUCILLE JANET LYON  
Notary Public, State of New York  
No. 60468360  
Qualified in Westchester County  
Commission Expires March 30, 1977



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
DORIS ARMSTRONG, ET. AL., :

Plaintiffs, :

-against- :

BENJAMIN WARD, ET. AL., :

Defendants. :

75 Civ. 470 (WK)  
AFFIDAVIT

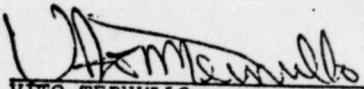
-----X  
STATE OF NEW YORK )  
:SS.:  
COUNTY OF DUTCHESS )

VITO TERNULLO, being duly sworn, deposes and says:

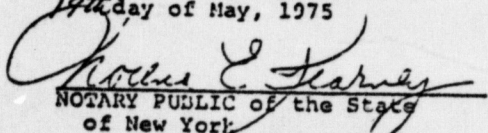
I am the Superintendent of the Fishkill Correctional Facility, a general confinement facility, operated by the New York State Department of Correctional Services, and as such am the officer principally responsible for the operation of the Fishkill Correctional Facility.

I have read the foregoing objections to plaintiffs' 9G statement and the same are true insofar as it concerns the operations, facilities and policies at the Female Unit of the Fishkill Correctional Facility.

WHEREFORE, it is prayed that plaintiffs' motion for summary judgment be denied.

  
VITO TERNULLO

Sworn to before me this  
19th day of May, 1975

  
NOTARY PUBLIC of the State  
of New York

ROBERT E. HENNEY  
Notary Public in the State of New York  
Residing in the County of Dutchess  
Commission Expires March 22, 1976

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
DORIS ARMSTRONG, et al.,

Plaintiffs

-against-

BENJAMIN WARD, et al.,

Defendants  
-----

AFFIDAVIT

75 CIV. 470 (WK)

STATE OF NEW YORK )

) ss:

COUNTY OF ALBANY )

PATRICK J. FISH, being duly sworn, deposes and says:

I am the Acting Counsel of the Department of Correctional Services of the State of New York and in such position I am the legal adviser to Commissioner Benjamin Ward, who has the overall responsibility for the operations of the Department. I submit this Affidavit in opposition to plaintiffs' application for summary judgment.

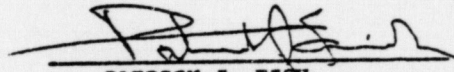
Pursuant to orders issued by Commissioner Ward, the Department of Correctional Services has closed the female unit of the Fishkill Correctional Facility, all inmates there being transferred either to Bedford Hills or to Parkside Correctional Facility, a facility for confinement of adult, sane female felons on a work release program. The last females at Fishkill, Leslie Mason and Carol Crooks, were transferred out on April 27, 1975, plaintiff Mason assigned to Parkside and Crooks to Bedford Hills.

There are no present plans to reopen the female unit at Fishkill, so long as Bedford Hills has sufficient capacity to handle adult, sane female felons. In cash Fishkill is reopened, it is contemplated that it might be reopened either on a



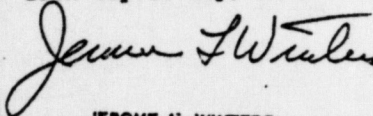
voluntary basis, or as a reception center for orientation and classification purposes.

As none of plaintiffs or any member of their purported class will be reassigned to Fishkill unless they request it, it is respectfully prayed that they are not entitled to any declaratory or injunctive relief, and it is, therefore, prayed that the motion for summary judgment be denied.

  
PATRICK J. FISH  
ACTING COUNSEL

Sworn to before me this

15th day of May, 1975



JEROME L. WINTERS  
NOTARY PUBLIC, State of New York  
No. 4311250  
Qualified in Albany County  
Commission Expires March 30, 1977

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
:  
DORIS ARMSTRONG, et al., :  
:  
Plaintiffs, :  
:  
vs. : 75 Civ. 470  
:  
BENJAMIN WARD, et al., :  
:  
Defendants. :  
:  
-----x

Before:  
  
HON. WHITMAN KNAPP,  
District Judge.  
  
New York, May 30, 1975;  
2.50 o'clock p.m.  
(Room 905)

APPEARANCES:

STEPHEN M. LARIMER, Esq., and  
CHARLES JONES, Esq.  
Attorneys for Plaintiffs.  
  
LOUIS J. LEFKOWITZ, Esq.,  
Attorney General for the State of  
New York,  
Attorney for Defendants;  
BY: DAVID SPIEGEL, Esq.,  
Assistant Attorney General,  
Of Counsel.

---



2 MR. SPIEGEL: Your Honor, I am just appearing  
3 for this particular day. I am not the Assistant  
4 assigned to this case.

5 THE COURT: Why are you so restrictive?

6 MR. SPIEGEL: Mr. Kantor, Stanley Kantor, who  
7 has been handling the case called in sick today at one  
8 o'clock and they asked me to fill in.

9 THE COURT: I have Mr. Fish's affidavit. For  
10 your information, my recollection of what happened the  
11 last time was that Mr. Kantor said he had an affidavit which  
12 he was going to submit which was in the mail to move the  
13 action.

14 MR. SPIEGEL: I assume he was referring to  
15 the Fish affidavit.

16 THE COURT: And if it wasn't sufficient that I  
17 would grant the summary judgment. That is my recollection  
18 of how we left it the last time, so the issue is whether  
19 Mr. Fish's affidavit is adequate to move the action.  
20 I just read it this minute.

21 MR. JONES: May I address myself to that, your  
22 Honor?

23 I think that the Fish affidavit has to be read  
24 in the context of the defendant's reply brief to the  
25 plaintiff's motion for summary judgment.

2 I would like to start, if your Honor will  
3 permit me, with the defendants' reply brief and then talk  
4 about the Fish affidavit in that context. Basically as I  
5 read the defendants' reply brief they make two points.  
6 One is that there is no denial of due process as to all  
7 the plaintiffs except plaintiffs' Crooks and Mason because  
8 there has not been an alleged act of misconduct by those  
9 plaintiffs who were transferred and subsequently re-  
10 transferred.

11 Secondly, they argue that as to Crooks --

12 THE COURT: It runs counter to the Second  
13 Circuit case.

14 MR. JONES: It does. I wanted to raise that,  
15 but I wanted to tie the two points in together.

16 The second point they make as to Crooks and  
17 Mason is that there may have been a due process denial --  
18 I think inferentially they say that -- but since they have  
19 been transferred out of the facility and since the facility  
20 is now closed the case is now moot. The reason I wanted  
21 to review briefly that reply brief was because in the reply  
22 brief it is not clear that the defendants are saying that  
23 the case is moot as to all parties, which is what I expect  
24 they are saying since they really only address themselves  
25 to the Crooks and Mason plaintiffs.



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Our contention is that the case would not be moot as to any of the parties, neither Crooks nor Mason nor any of the other parties who are transferred on the grounds that there was a basic denial of due process to all the plaintiffs who were transferred without notice and hearing, and the reason we take that position is that I think that the Second Circuit decision is different from the Supreme Court's decision in Morrissey and Wolf against McDonnell.

The defendants slide past Newkirk fairly easily and focus on McDonnell and Morrissey because there were serious acts of misconduct involved and possible loss of good time, and the question was whether --

THE COURT: I assume there was a denial for purposes of this motion, that is, we assume that there was a denial of due process. The question is whether it is mooted by the return and by the guarantee they won't go back.

MR. JONES: If it can be assumed that there was a denial of due process as to all of the plaintiffs, then it is quite clear from the position defendants are taking that the case cannot be considered moot because that means that they do not acknowledge that the original transfer, except as to Mason and Crooks, were denied due

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2 process, which means that the facility can be continued  
3 to be open and --

4 THE COURT: They say that the question is that  
5 their affidavit commits them to keep it closed.

6 MR. JONES: That is really what the clinker  
7 in the case is, as I see it. What does "closed" mean?  
8 It seems as though closed means closed until another reason  
9 which they may have for reassigning people to that facility  
10 arises. They have articulated two or three reasons.  
11 One is overcrowdedness at Bedford Hills.

12 No. 2 is if the plaintiffs volunteer to go  
13 there on their own, and three is that they wanted to use it  
14 as an initial assignment center.

15 THE COURT: None of those possibilities would  
16 seem to affect your clients.

17 MR. JONES: It does to the extent, your Honor,  
18 that if it is true as we allege that the initial transfers  
19 were punitive in nature and therefore denied due process  
20 which the defendants contend, then any transfers there,  
21 unless they were purely voluntary and that have been  
22 litigated in another issue would be --

23 THE COURT: They are just going to take new  
24 people they say.

25 MR JONES: Or in case there is some overcrowding



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2 at Bedford then there would be some transfers from Bedford  
3 Hills into that facility.

4 The point is this, your Honor: They have not  
5 admitted that there is any need for an assignment of reasons  
6 or a Court hearing on transfers, the according of a hearing  
7 on transfers from Fishkill.

8 THE COURT: Newkirk establishes that.

9 MR. JONES: If there is no Court adjudication  
10 to that effect --

11 THE COURT: What they say, and I thought you  
12 would want to attack their language, is that they don't  
13 propose to move anybody, either your presently named  
14 plaintiffs or anybody of their class, which means to confine  
15 those in Bedford to Fishkill under any circumstances except  
16 voluntary.

17 MR. JONES: They say there are other circum-  
18 stances at the reception center for orientation and  
19 classification purposes.

20 I was reading the sentence which  
21 precedes that which says:

22 "There are no present plans to reopen the  
23 female unit at Fishkill, so long as Bedford Hills  
24 has sufficient capacity to handle adult, sane female  
25 felons."

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2 There is also nothing to prevent them from  
3 making transfers for any basis not suggested in this  
4 affidavit.

5 THE COURT: I thought you were going to call  
6 this equivocal language.

7 MR. JONES: I am suggesting there are two  
8 problems with it. One is that there is an equivocal  
9 nature to it, but it is not conclusive what the basis is  
10 upon which they can consider making transfers without  
11 according a hearing or assigning any reasons.

12 THE COURT: Your argument is that the affiant  
13 may not say what I think he says.

14 MR. JONES: That is right.

15 THE COURT: I am going to solve that by saying  
16 what I think he says on the record and calling upon the  
17 Attorney General to affirm or disaffirm what I think he  
18 says. If he affirms it, that will end the case, and if  
19 he disaffirms it I will grant your motion.

20 MR. JONES: Can I just allow Mr. Latimer to  
21 make a comment?

22 THE COURT: Certainly.

23 MR. LATIMER: Your Honor, I think that the  
24 language is equivocal in that --

25 THE COURT: That is what I assumed you were



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2 going to argue.

3 MR. LATIMER: Your Honor, there is another  
4 problem and that is that this is an affidavit submitted  
5 by counsel. It is not submitted by Ward himself as to a  
6 present plan or present posture and if they change their  
7 mind tomorrow, if this case is dismissed and they change  
8 their mind tomorrow, we have to start a whole other lawsuit.  
9 This has no binding effect in terms of the posture of the  
10 case now and an order would be appropriate, I think,  
11 declaring that the rights of the plaintiffs and the class  
12 have been violated and enjoining transfer under the circum-  
13 stances that we have alleged in the complaint and, you know,  
14 I would even suggest the possibility, although I don't  
15 think it is the best thing sent to such an order.

16 MR. JONES: Your Honor, before we move on, can  
17 I make just one concluding point, which may sound rather  
18 abstract, but I think it is appropriate to be made before  
19 we conclude our argument on this issue. I think that  
20 the point that is made at the end of the opinion in Newkirk  
21 against Butler, which in effect, is that -- and I think  
22 this goes all the way back to the U. S. against W. T. Grant  
23 case governing the conditions under which a transfer can  
24 or cannot be made without the notice of hearing --

25 THE COURT: As I read this document, it is a

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clear pronouncement that no transfers are going to be made under any circumstances. This goes way beyond Newkirk.

MR. JONES I think from a fair reading of the document that conclusion cannot be made clearly.

THE COURT: That is the argument which you can make. I am going to dispose of it one way or the other.

MR. JONES: While the case can be disposed of on that basis, as to what this affidavit does or does not say, I think the overarching, probably more important policy can be served by having a clear pronouncement of law as to whether the initial transfers were constitutional or not.

THE COURT: If their position is that they don't make transfers of any sort or --

MR. JONES: If they are saying that the facility is going to be closed, we can understand what closed means, that is, not to be used again as a correctional facility, then I think there would be no problem.

THE COURT: What they say, whether they mean it or not, but certainly the language in the affidavit is as clear as the language that Mr. Kantor expressed in open court yesterday. That is clear. It seems to me you have an argument.



1  
2 I am going to, I think, dispose of that argu-  
3 ment by saying what I conceive they mean, and I will call  
4 upon the State to affirm my understanding, that is, dismiss-  
5 ing the action without prejudice to reopening this action  
6 at any time the State takes action inconsistent with what  
7 they now say it intends to do. That would seem to me to  
8 solve the problem.

9 You raise a point which is about exposure, about  
10 being fired tomorrow and where does that leave us. You say  
11 you do not want to start an action again. Well, that  
12 seems to me more than that. It seems to me the way to  
13 deal with that is this:

14 Any time the State threatens to take action we  
15 can point out what they said here. In other words, I  
16 don't think a Federal Court should assume that the State  
17 does not mean what it says it means. I don't see why it  
18 should foreclose itself from dealing with that possibility  
19 should it arise.

20 Mr. Spiegel.

21 MR. SPIEGEL: Your Honor, I am in the unfortunate  
22 position of stepping into the ball game in the seventh  
23 inning.

24 THE COURT: That is all right. There has never  
25 been anybody in this case more than once.

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2 MR. SPIEGEL: I feel more or less as if I have  
3 been reading a box score more than participating. I say  
4 this based on a reading of the case a short time, an hour  
5 or two, before I came here. That is how much time I have  
6 had to prepare. It seems to me that Mr. Fish, who is  
7 now acting counsel for the Department, and who certainly  
8 speaks for the Department, is saying that unless these  
9 plaintiffs voluntarily decide that they want to leave  
10 Bedford and come back to Fishkill at some time Fishkill  
11 might be reopened, they are not going to be assigned there  
12 without a hearing.

13 THE COURT: That is the Newkirk case.

14 MR. SPIEGEL: That is Newkirk.

15 THE COURT: Now, if the Newkirk case gets  
16 reversed --

17 MR. SPIEGEL: If it changes the rule anything  
18 here would be inoperative.

19 THE COURT: I will interpret this affidavit on  
20 the record as meaning that the State has concluded that it  
21 will not reopen Fishkill unless forced to do so by  
22 insufficient capacity and in that event it will not remove  
23 any prisoner, either the named plaintiffs or any other  
24 plaintiffs, from Bedford Hills to Fishkill without such  
25 prisoner's express concern, and that aside from prisoners



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2 going from Bedford Hills to Fishkill pursuant to such  
3 express consent the only prisoners admitted to Fishkill  
4 will be on direct commitment from a Court.

5 Now, with one week I would like an answer from  
6 the Attorney General, to wit, Mr. Lefkowitz personally, so  
7 I will know that I am dealing with someone who has authority  
8 to affirm or deny that is the correct position. If he  
9 denies it, then, as indicated at the last hearing, I will  
10 grant a motion for summary judgment on the authority of  
11 Newkirk because I think it has been established beyond  
12 cavil that Fishkill is a less desirable place to be than  
13 Bedford Hills.

14 I don't think your first point is well taken,  
15 that it has to be punitive. As I understand it, and the  
16 case is now on its way to the Supreme Court, the mere fact  
17 that it is less desirable requires the giving of some  
18 reason for a transfer.

19 Therefore, I think the Court in a summary  
20 judgment prohibiting any transfer from Bedford Hills to  
21 Fishkill without a statement of reason would have to find  
22 it at this point without meeting the Newkirk-Mattewan  
23 requirements.

24 MR. SPIEGEL: As I understand your Honor's  
25 statement, you are saying that there is a third possibility

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2 if we comply with Newkir, assuming it is affirmed, that  
3 there could be a transfer?

4 THE COURT: The order on summary judgment will  
5 merely provide that there be no transfers without applying  
6 the Newkirk-Mattewan requirements. If the Attorney General  
7 says that I correctly interpreted this affidavit, the com-  
8 plaint will be dismissed without prejudice to an application  
9 to restore it to the calendar should some successor of  
10 Mr. Lefkowitz find differently.

11 MR. SPIEGEL: The whole problem I have is that  
12 I think the Department of Correction may want to preserve  
13 its leverage and in addition to voluntary transfers have  
14 the right, if there is a due process hearing --

15 THE COURT: If they want to do that I will  
16 put it in the order. They have to comply with the order  
17 as long as they want to preserve their right to transfer.  
18 I think the plaintiffs are entitled to an order that has to  
19 be complied with, not to just subsequently litigating this  
20 matter, because all this goes by the boards if Newkirk is  
21 reversed.

22 MR. LATIMER: In effect, your Honor, if your  
23 interpretation of that affidavit is correct the Court will  
24 still retain jurisdiction over the action for purposes of  
25 violation.



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THE COURT: I will dismiss the application without prejudice to making an application to renew it. I don't call that retaining jurisdiction. The action is dismissed.

MR. LATIMFR: It is not going to require a new summons and complaint because there was a transfer of violation; is that it?

THE COURT: No, just make an application.

MR. SPIEGEL: I really don't know how Mr. Kantor will feel, but he may feel that an order is necessary. He may want to comply with this affidavit. I think there is no question he is saying that unless they voluntarily consent they can't be transferred, but I'm not sure whether he intends to --

THE COURT: The reason I read it that way was that Mr. Kantor was telling me what he was going to say. I think it is near enough to what he told me he was going to say.

MR. SPIEGEL: I will turn this over to Mr. Kantor.

THE COURT: In either event, whatever happens, settle an order, that is, submit an order. He is going to let us know one way or the other. If he affirms it submit an order dismissing the action without prejudice,

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and if he disaffirms, submit an order on notice.

MR. LATIMER: If we have no response from him  
by next Friday submit an order on notice?

THE COURT: Yes, make your motion.

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STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONAL SERVICES  
THE STATE OFFICE BUILDING CAMPUS  
ALBANY, N.Y. 12226

BENJAMIN WARD  
COMMISSIONER

June 6, 1975

The Honorable Whitman Knapp  
United States District Court  
Southern District of New York  
United States Courthouse  
Foley Square  
New York, New York 10007

Re: Armstrong v. Ward,  
75 Civ. 470 (WK)

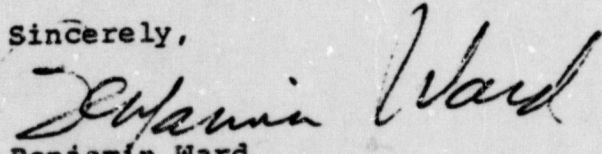
Honorable Sir:

We have been informed by the Attorney General's Office that Your Honor has indicated some question concerning the construction of an affidavit submitted in the above-captioned case by my Acting Counsel, Patrick Fish.

I am sympathetic with any intentions of the Court to provide for the most feasible humane conditions for the housing of inmates. At the present time, I do not intend to utilize the Fishkill Female Unit for the housing of women inmates. However, faced with the staggering population increase, I might be forced to make the administrative decision to reopen the Fishkill Female Unit. The uncertainties of the future will not allow me to foreclose any major administrative decisions revolving around the reopening of Fishkill. As the administrator of this Department, I can comment only in full candor and give you my present intentions.

Should it be necessary to reopen the Fishkill Female Unit, it would be my intention to reopen it on a volunteer basis or with new reception. Consequently, at this time I do not intend to transfer to the Fishkill Female Unit any of the present inmates at Bedford Hills. Additionally, should I reopen this Unit, it would be my intention to make physical changes within budget limitations at Fishkill to bring the Female Unit more in line with the standards and conditions now found at Bedford. I trust the above will be of assistance to you.

Sincerely,

  
Benjamin Ward  
Commissioner

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DORIS ARMSTRONG, et. al.,  
Plaintiffs,

=against=

BENJAMIN WARD, et. al.,  
Defendants.

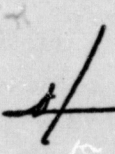
MEMORANDUM AND ORDER

75 CIV. 470

KNAPP, D. J.

The order of even date which is incorporated herein by reference - seems to comply with the major suggestions made by the respective parties except that it makes no provision for relief in the event that the Fishkill Correctional Facility should be improved in such a manner as to put it on a par with or even superior to Bedford Hills Correctional Facility. Such relief, however, is available under F.R.C.P. § 60(b)(6).

DATED: New York, New York  
June 24, 1975

  
WHITMAN KNAPP  
U.S.D.J.



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DORIS ARMSTRONG, ET. AL., :

Plaintiffs,

ORDER

-against-

75 CIV. 470 (WK)

BENJAMIN WARD, ET. AL., :

Defendants.

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Plaintiffs having moved this Court for an Order:

1) determining the action to be a class action pursuant to F.R.C.P. §23(a) and (b) (2), and, 2) for summary judgment permanently enjoining Defendants from transferring any member of the class to Fishkill Correctional Facility without a hearing conforming to due process; and the Court having considered the affidavits and memoranda submitted by the parties, and due deliberation having been had, it is ORDERED that

1. The action be declared a class action pursuant to F.R.C.P. §23(a) and (b) (2), the class consisting of all women in the custody of the New York State Department of Correctional Services at Bedford Hills Correctional Facility who are subject to be transferred to Fishkill Correctional Facility;

2. Plaintiffs' motion for summary judgment against Defendants is granted;

3. All transfers of named Plaintiffs to Fishkill Correctional Facility between July 1, 1974 and December 31, 1974 were in violation of the transferres' right to not be deprived of liberty without due process of law;


4. Defendants are permanently enjoined from sending any member of Plaintiffs' class to Fishkill Correctional Facility without following the procedures required by the decisions in Newkirk v. Butler, (2nd Cir. 1974) 499 F 2d 1214 and Haymes v. Montanye (2nd Cir. 1974) 505 F 2d 977.

5. Defendants shall not consider the transfer of any member of the class to Fishkill Correctional Facility when determining her eligibility for release on parole.

6. Counsel for Plaintiffs shall notify all members of the class of the entry of this Order. Plaintiffs' counsel shall deliver to Defendant WARNE, sufficient copies of the Notice annexed as Exhibit "A" describing this Order so that the Notice may be posted as set forth in Paragraph 7.

7. Defendant Warne shall cause two copies of the Notice to be palced and affixed in conspicuous places in each day room of each building used to house inmates, including the hospital building, the legal library and the reading library.

DATED: New York, N. Y.  
June 24, 1975.

  
WHITMAN KNAPP  
U.S.D.J.



DORIS ARMSTRONG, et. al., -against- BENJAMIN WARD, et. al.,

U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

No. 75 CIV. 470

NOTICE TO THE CLASS

On February 1, 1975, the women who had been transferred from Bedford Hills to the Fishkill/Matteawan complex began a class action designed to prevent prisoners from being transferred to Fishkill/Matteawan on the ground that all such transfers are punitive, regardless of how they are classified by the administration.

On June 20, 1975, Judge Knapp permitted the lawsuit to proceed as a class action consisting of all women in the Bedford Hills Correctional Facility who are subject to be transferred to Fishkill/Matteawan. At the same time he granted Plaintiff's motion for summary judgment and prohibited any transfer to Fishkill/Matteawan without the requisite due process hearing. He also forbade the previous transfer to Fishkill/Matteawan of any person to be considered adversely by the parole board.

If the administration attempts to transfer you, or any woman, to Fishkill/Matteawan, please write or call:

Stephen M. Latimer, Esq.  
Bronx Legal Services, Corp. C.  
579 Courtlandt Avenue  
Bronx, New York 10451  
Tel. (212) 993-6250

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

DORIS ARMSTRONG, MARGARET LEAK, CAROL  
CROOKS, LESLIE MASON, GLORIA JONES,  
DAISY GARCIA, BARBARA LEE and DIEPRE  
PLAIN, On Behalf of Themselves  
all others Similarly Situated,

vs.

-against-

PETER PREISER, Individually, and as  
Commissioner of Correctional Services,  
EDWARD ELWIN, Individually and as  
Deputy Commissioner of Program Services;  
WILLIAM QUICK, Individually, and as  
Deputy Commissioner of Correctional  
Facilities; EUGENE PHILLIPS, Individually  
and as Superintendent of Bedford Hills  
Correctional Facility; JOSEPH CURRY,  
Individually, and as Deputy Superintendent  
for Program Services; VITO TURNELLO,  
Individually, and as Superintendent of  
Fishkill Correctional Facility; STEVEN  
DALSHEIM, Individually and as Deputy  
Superintendent of Program Services; RITA  
SMITH, Individually, and as Supervisor,  
Female Unit of Fishkill Correctional  
Facility,

Defendants.

75 Civ. 470 WK

NOTICE OF APPEAL

S I R S :


Notice is hereby given that all defendants hereby  
appeal to the United States Court of Appeals for the Second  
Circuit, from the final judgment, order and decree entered in  
this action on the 26th day of June, 1975, and from each and  
every part of said final judgment, order and decree as well as  
from the whole thereof. Defendants further appeal to the United  
States Court of Appeals for the Second Circuit from the order  
entered in this action on the 25th day of June, 1975, and from  
each and every part of said order as well as from the whole  
thereof.



Dated: New York, New York  
July 23, 1975

Yours, etc.

LOUIS J. LEFKOWITZ  
Attorney General of the  
State of New York  
Attorney for Defendants-  
Appellants  
By

  
STANLEY L. KANTOR  
Assistant Attorney General  
Office & P.O. Address  
Two World Trade Center  
New York, New York 10047

TO: STEPHEN M. LATIMER, ESQ.  
Bronx Legal Services Corp. C  
579 Courtlandt Avenue  
Bronx, New York 10451

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF NEW YORK )

Rosalba Federici , being duly sworn, deposes and says that he is employed in the office of the Attorney General of the State of New York, attorney for Defendants-Appellants herein. On the 28th day of October , 1973 , he served the annexed upon the following named persons :

**DONALD GRAJALES**  
**STEPHEN M. LATIMER**  
**Bronx Legal Services Corp. C**  
**Attorneys for Plaintiffs-Appellees**  
**379 Courtlandt Avenue**  
**Bronx, New York 10451**

Attorney<sup>s</sup> in the within entitled Action by depositing a true and correct copy thereof, properly enclosed in a post-paid wrapper, in a post-office box regularly maintained by the Government of the United States at Two World Trade Center, New York, New York 10047, directed to said Attorney at the address within the State designated by them for that purpose.

Lucrezia Federici

Sworn to before me this  
28th day of October, 1977

Assistant Attorney General  
of the State of New York